United Nations A/64/546–S/2009/619

General Assembly
Security Council

Distr.: General
3 December 2009

Original: English

General Assembly
Sixty-fourth session
Agenda items 14 and 18

Protracted conflicts in the GUAM area and their implications for international peace, security and development

The situation in the occupied territories of Azerbaijan

Security Council
Sixty-fourth year

Letter dated 30 November 2009 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General

Upon instructions from my Government, I have the honour to draw your attention to ongoing violations of the ceasefire by the military forces of the Republic of Armenia, recorded for the month of November 2009 (see annex).

As you are aware, a fragile ceasefire in Armenia-Azerbaijan conflict was put in place in May 1994. However, facts testify that since summer of 2003 there has been an acute increase in the Armenian side's violations of the ceasefire. In addition to shelling and killing Azerbaijani soldiers, Armenian military forces also attack civilians residing in the adjacent territories. The information attached, which covers ceasefire violations with registered fire point areas both in the occupied territories of the Republic of Azerbaijan and the Republic of Armenia, is illustrative as to how Armenia is far from even thinking about the idea of achieving a lasting peace, but is actually pursuing the destructive and militaristic policy, jeopardizing the ongoing efforts towards the settlement of the conflict and misleading the international community.

I should be grateful if you would have the present letter and its annex circulated as a document of the General Assembly, under agenda items 14 and 18, and of the Security Council.

(*Signed*) Agshin **Mehdiyev**
Ambassador
Permanent Representative

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Annex to the letter dated 30 November 2009 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General

Violations of the ceasefire by the military forces of the Republic of Armenia[a] in the month of November 2009

Date	*Time*	*Direction*	*Fire point area*	*Used Weapons*	*Casualties & Damages*
1 November	6.45am-7.20am 9.00pm-9.20pm 11.50pm-12.05am	Five	Unknown heights, Gorgan and Ashagi Abdurahmanli villages, Fizuli region, Azerbaijan	Firearm & Machinegun	—
	12.40pm-12.50pm		Sarijali village, Aghdam region, Azerbaijan	Firearm & Machinegun	—
2 November	9.30pm-9.45pm	Two	Unknown heights, Khojavand region, Azerbaijan	Firearm & Machinegun	—
3 November	5.00am-5.27am 5.10am-5.20am	Six	Gorgan, Garakhanbayli and Ashagi Abdurahmanli villages, Azerbaijan	Firearm & Machinegun	—
	7.00pm-7.35pm		Unknown heights, Gadabay region, Azerbaijan	Firearm & Machinegun	—
	9.15pm-9.20pm		Unknown heights, Khojavand region, Azerbaijan	Firearm & Machinegun	—
	9.15pm-9.20pm		Yusijanli and Marzil villages, Azerbaijan	Firearm & Machinegun	—
4 November	7.20am-7.35am	Five	Unknown heights, Ashagi Abdurahmanli and Ashagi Seyidahmadli villages, Azerbaijan	Firearm & Machinegun	—
	11.00am-11.10am		Garasu village, Berd region, Armenia	Firearm & Machinegun	—
	9.15pm-9.25pm		Unknown heights, Khojavand region, Azerbaijan	Firearm & Machinegun	—
5 November	12.02am-12.15am	Nine	Unknown heights, Ashagi Abdurahmanli and Ashagi Seyidahmadli villages, Azerbaijan	Firearm & Machinegun	—

[a] Settlements of the Republic of Azerbaijan included in this information are under the occupation by the Republic of Armenia or close to fire point areas.

	7.00pm-7.45pm 9.40pm-9.55pm		Goyarkh and Jilaburt villages, Terter region, Azerbaijan	Firearm & Machinegun	—
	9.35pm-9.55pm 10.55pm-11.15pm 11.00pm-11.15pm		Unknown heights, Ashagi Abdurahmanli and Gorgan villages, Azerbaijan	Firearm & Machinegun	—
6 November	12.15am-12.40am	Six	Goyarkh and Jilaburt villages, Terter region, Azerbaijan	Firearm & Machinegun	—
	1.40am-2.00am		Shurabad village, Aghdam region, Azerbaijan	Firearm & Machinegun	—
	11.40am-11.50am		Tapgaragoyunlu village, Goranboy region, Azerbaijan	Firearm & Machinegun	—
	9.00pm-9.15pm 10.55pm-11.10pm		Unknown heights, Gorgan villages, Fizuli region, Azerbaijan	Firearm & Machinegun	—
8 November	5.45pm-5.50pm	One	Unknown heights, Khojavand region, Azerbaijan	Firearm & Machinegun	—
9 November	5.50pm-6.00pm	Six	Vosgepar village, Noyanberyan village, Armenia	Firearm & Machinegun	—
	5.50pm-6.10pm		Mosesegkh village, Berd region, Armenia	Firearm & Machinegun	—
	6.10pm-6.15pm		Berkaber village, Ijevan region, Armenia	Firearm & Machinegun	—
	5.30pm-5.45pm		Unknown heights, Gazakh region, Azerbaijan	Firearm & Machinegun	—
	10.20pm-10.45pm		Ashagi Abdurahmanli and Ashagi Seyidahmadli villages, Azerbaijan	Firearm & Machinegun	—
10 November	12.30am-1.50am	Two	Ashagi Abdurahmanli and Ashagi Seyidahmadli villages, Azerbaijan	Firearm & Machinegun	—

11 November	8.00am-8.10am	Eleven	Berkaber village, Idjevan region, Armenia	Firearm & Machinegun	—
	5.00pm-5.20pm		Yusifjanli village, Aghdam region, Azerbaijan	Firearm & Machinegun	—
	9.30pm-9.45pm 10.15pm-10.30pm 11.20pm-11.30pm		Gorgan and Ashagi Seyidahmadli villages, Azerbaijan	Firearm & Machinegun	—
	1.00pm-1.25pm 8.30pm-8.35pm 11.50pm-12.15am		Garvand, Garakhanbayli and Ashagi Abdulrahmanli villages, Fizuli region, Azerbaijan	Firearm & Machinegun	—
	4.05pm-4.20pm 9.35pm-10.00pm		Yusifjanli and Tagibayli villages, Aghdam region, Azerbaijan	Firearm & Machinegun	—
	5.00pm-5.15pm		Unknown heights, Kurapatkino village, Khojavand region, Azerbaijan	Firearm & Machinegun	—
12 November	12.10am-12.30am	Two	Unknown heights, Kurapatkino village, Khojavand region, Azerbaijan	Firearm & Machinegun	—
15 November	1.10pm-1.20pm 7.00pm-7.30pm 9.05pm-9.25pm 10.30pm-10.40pm 10.55pm-11.03pm	Four	Unknown heights, Ashagi Veysalli and Garakhanbayli villages, Fizuli region, Azerbaijan	Firearm & Machinegun	—
	9.05pm-9.25pm		Marzil village, Agdam region, Azerbaijan	Firearm & Machinegun	—

16 November	7.10am-7.15am	Six	Mosesgerkh village, Berd region, Armenia	Firearm & Machinegun	—
	1.40am-11.00am		Marzil village, Aghdam region, Azerbaijan	Firearm & Machinegun	—
	2.35pm-2.40pm		Tapgaragoyunlu village, Goranboy region, Azerbaijan	Firearm & Machinegun	—
	9.00am-9.15am 9.10pm-9.25pm		Ashagi Veysalli, Garakhanbayli and Ashagi Abdulrahmanli villages, Fizuli region, Azerbaijan	Firearm & Machinegun	—
17 November	12.30am-12.40am	Six	Ashagi Veysalli, Garakhanbayli and Ashagi Abdulrahmanli villages, Fizuli region, Azerbaijan	Firearm & Machinegun	—
	1.25pm-1.35pm 5.00pm-5.25pm		Mosesgerkh and Chinarli villages, Berd region, Armenia	Firearm & Machinegun	—
	5.35pm-5.445pm 8.15pm-8.25pm		Ashagi Abdurahmanli village, Fizuli region, Azerbaijan	Firearm & Machinegun	—
18 November	6.15pm-6.35pm	Three	Chinarli village, Berd region, Armenia	Firearm & Machinegun	—
	9.45pm-10.00pm		Unknown heights, Ashagi Abdurahmanli village, Fizuli region, Azerbaijan	Firearm & Machinegun	—
19 November	2.42am-3.00am	Three	Unknown heights, Ashagi Abdurahmanli village, Fizuli region, Azerbaijan	Firearm & Machinegun	—

	11.35pm-11.45pm		Unknown heights, Goranboy region, Azerbaijan	Firearm & Machinegun	—
20 November	10.30am-10.45am	Four	Vosgepar village, Noyanveryan region, Armania	Firearm & Machinegun	—
	3.45pm-4.00pm		Tapgaragoyunlu village, Goranboy region, Azerbaijan	Firearm & Machinegun	—
	7.00pm-7.10pm		Marzil and Sarijali villages, Aghdam region, Azerbaijan	Firearm & Machinegun	—
21 November	1.05am-1.10am	Four	Marzil and Sarijali villages, Aghdam region, Azerbaijan	Firearm & Machinegun	—
	1.35am-2.00am		Gizil Oba village, Terter region, Azerbaijan	Firearm & Machinegun	—
	9.00pm-9.15pm		Garakhanbali village, Fizuli region, Azerbaijan	Firearm & Machinegun	—
22 November	4.35pm-4.45pm	One	Talish village, Terter region, Azerbaijan	Firearm & Machinegun	41-year-old resident (civilian) of Tapgaragoyunlu village Saday Gahramanov was killed
23 November	11.45am-12.01pm	Five	Mosesgerkh village, Berd region, Armenia	Firearm & Machinegun	—

	11.05am-11.20am		Unknown heights, Garakhanbayli and Ashagi Abdurahmanli villages, Fizuli region, Azerbaijan	Firearm & Machinegun	—
	5.30pm-5.35pm		Azatamut village, Idjevan region, Armenia	Firearm & Machinegun	—
24 November	12.35am-12.45am	Seven	Unknown heights, Garakhanbayli and Ashagi Abdurahmanli villages, Fizuli region, Azerbaijan	Firearm & Machinegun	—
	4.35pm-4.45pm 7.25pm-7.35pm 10.50pm-11.10pm		Ashagi Veysalli and Ashagi Abdurahmanli villages, Fizuli region, Azerbaijan	Firearm & Machinegun	—
	7.55pm-8.05pm 9.49pm-10.02pm 8.20pm-8.30pm 9.50pm-10.05pm		Kurapatkino village, Khojavand village, Azerbaijan	Firearm & Machinegun	—
25 November	11.55am-1.20pm 12.50pm-1.05pm	Three	Mosesgerkh and Aygepar villages, Berd region, Armenia	Firearm & Machinegun	—
	9.15pm-9.25pm		Kurapatkino village, Khojavand region, Azerbaijan	Firearm & Machinegun	—
26 November	1.30pm-1.45pm 10.40pm-10.50pm	Seven	Sarijali village, Agdam region, Azerbaijan	Firearm & Machinegun	—
	2.30pm-2.35pm		Tapgaragoyunlu village, Goranboy region, Azerbaijan	Firearm & Machinegun	—
	4.00pm-4.10pm 11.25pm-11.35pm		Kuropatkino village, Khojavend region, Azerbaijan	Firearm & Machinegun	—
	11.05pm-11.20pm		Mehdili and Jojugmarjanli villages, Jabrayil region, Azerbaijan	Firearm & Machinegun	—

	2.05pm-2.25pm		Garakhanbayli village of Fuzuli region, Azerbaijan	Firearm & Machinegun	—
27 November	5.10am-5.20am	One	Garakhanbayli village of Fuzuli region, Azerbaijan	Firearm & Machinegun	—
29 November	1.25pm-1.35pm	Seven	Sarijali village, Aghdam region, Azerbaijan	Firearm & Machinegun	—
	1.40pm-2.05pm		Gulustan village, Goranboy region, Azerbaijan	Firearm & Machinegun	—
30 November	6.30am-6.45am 6.35am-6.50am 6.50am-7.00am 5.00pm-5.05pm 9.50pm-10.05pm 10.45pm-11.15pm	Five	Unknown heights, Gorgan, Ashagi Abdurahmanli and Garakhanbayli villages, Fizuli region, Azerbaijan	Firearm & Machinegun	—
	1.45am-1.55am		Javahirli village, Aghdam region	Firearm & Machinegun	—

United Nations S/2009/620

Security Council

Distr.: General
3 December 2009

Original: English

Letter dated 3 December 2009 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I have the honour to refer to Security Council resolution 1805 (2008) and the report of the Counter-Terrorism Committee to the Security Council (S/2009/289), and I am pleased to submit herewith to the Council, for its consideration, the second report of the Counter-Terrorism Committee on the implementation of resolution 1373 (2001) (see annex).

The report was prepared for the Committee by the Counter-Terrorism Committee Executive Directorate. It provides an assessment of the implementation of resolution 1373 (2001) in regions and subregions, and draws conclusions about progress in the implementation of the resolution in key thematic areas.

The report contains priority recommendations for future action by the Committee, which highlight the main concerns with regard to the implementation of resolution 1373 (2001) and serve as a planning and priority-setting tool for the Committee and the Council.

The report is based on information available as at September 2009. In accordance with the request of the Council, the Executive Directorate will prepare an updated version of the report as new information is received from Member States.

I should be grateful if the present letter and the attached report could be circulated as a document of the Security Council.

(*Signed*) Ranko **Vilović**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Survey of the implementation of Security Council resolution 1373 (2001) by Member States

November 2009

Introduction

The present survey, prepared in response to a request of the Security Council, revises, and in some areas expands upon the initial survey of the implementation of Security Council resolution 1373 (2001), issued by the Committee in June 2008.

As in the earlier survey, this document was prepared by the experts of the Counter-Terrorism Committee Executive Directorate (CTED) and is based on their professional judgement of the information available as of September 2009.

The survey relies on data compiled by CTED from information and updates provided by Member States; visit reports (in the case of the more than 40 States visited by the Committee); and information provided by international, regional and subregional organizations. This data is also recorded in the preliminary implementation assessments (PIAs) prepared for all 192 Member States. Dialogue with Member States on the PIAs has intensified as a result of the ongoing stocktaking process. The Committee and its Executive Directorate continue to encourage this dialogue in order to promote exchange of information and to understand the views of Member States on implementation of resolution 1373 (2001).

The survey focuses on the major thematic areas addressed by the resolution: notably, counter-terrorism legislation, counter-financing of terrorism, law enforcement, border control and international cooperation. It also takes into account the protection of human rights, as relevant to the resolution. The sections on border control and law enforcement in each region have generally been expanded from the 2008 survey, as experts have identified additional criteria by which to assess progress in these areas.

Part I of the survey provides an assessment of the implementation of resolution 1373 (2001), using the same regional breakdown as in the initial survey.

Part II draws certain conclusions about global progress in the implementation of the resolution in key thematic areas.

The purpose of the updated survey is to present current general trends in the implementation of the resolution with a view to identifying regional strengths in implementing certain aspects of the resolution that could be shared with Member States, as well as regional vulnerabilities, or areas where groups of States facing particular implementation difficulties might benefit from a regional or subregional approach to counter-terrorism. It should be noted that in some subregions States display significantly varying levels of strengths and progress in their implementation of the resolution. At the end of each section, a number of priority recommendations are identified in order to highlight those areas where attention and action is most needed.

Finally, it should be noted that in a number of regions many States face a range of challenges - including competing developmental priorities, limited training opportunities and continuing pressure on Government budgets - which affect the level of progress achieved in implementing the resolution.

PART I
Assessment by region

AFRICA

North Africa

(Algeria, Egypt, Libyan Arab Jamahiriya, Mauritania, Morocco, Sudan and Tunisia)

The Committee has visited four States of this subregion.

Areas of assessment

Legislation: Two States, including one visited State, have introduced comprehensive counter-terrorism legislation and established adequate jurisdiction for the relevant offences. The other five States have done so partially. With the exception of one visited State, States in this subregion have yet to introduce the principle of "aut dedere aut judicare" into their domestic law. Six States have taken adequate measures to suppress terrorist recruitment and its criminalization, while one has done so partially. Three States, including one visited State, have taken adequate legal measures to criminalize the provision of safe haven, while four others have done so partially. All States prohibit the use of their territories by their nationals to commit or prepare terrorist acts against other States. All visited States have effective prosecution and judiciary in place to bring perpetrators to justice. However, several States, including visited States, rely upon overly broad legal definitions that have raised concerns among the United Nations human rights mechanisms and could present difficulties in respect of international cooperation.

Counter-financing of terrorism: All States are parties to the International Convention for the Suppression of the Financing of Terrorism, but only four have criminalized the offence in accordance with the Convention. All have adopted new AML laws in recent years; all but one have established FIUs, and one visited State has an operational FIU. Five States (of which three have been visited) extend the reporting obligation to the financing of terrorism, while one visited State does not. Five States (of which three have been visited) extend the reporting obligation to the relevant non-financial businesses and professions. Although all States have laws in place to regulate charitable organizations, only two have introduced a detailed regulatory framework on charitable organizations aimed at preventing them from being misused for the purpose of terrorist financing. One State has conducted a risk assessment of its NPO sector with respect to terrorist financing. Four visited States employ an adequate declaration system for incoming and outgoing cross-border transportation of currency and bearer negotiable instruments, but operational implementation at the borders could be further enhanced.

Law enforcement: Four visited States have adopted a comprehensive counter-terrorism strategy and employ adequate, specialized counter-terrorism institutional structures and measures that are managed by appropriate agencies. In these States, there is a good level of interagency cooperation, information-

sharing and coordination. Five States have set up the interagency coordination mechanisms needed to deal with counter-terrorism matters. All States use INTERPOL databases, but have not extended them to all border posts. For all States, there is a need to strengthen judicial oversight of law enforcement activities to ensure respect for human rights and prevent impunity. At least one visited State offers courses on human rights in its police academy. All States have taken steps to regulate the production, sale and transfer of arms and explosives. Only four have implemented the United Nations PoA to Combat the Illicit Trade in Small Arms and Light Weapons (2001). Two States have yet to set up a national enforcement programme to combat arms smuggling. Three States are not yet parties to the United Nations Convention Against Transnational Organized Crime (UNTOC) Firearms Protocol.

Border control: Six States have introduced measures to screen travellers and to detect forged travel documents, but the security and integrity of the procedures for issuing identity papers and travel documents could be improved in some States. Three States issue machine-readable travel documents (MRTDs) and four are striving to meet the ICAO deadline of 1 April 2010 for their introduction. One State has fully implemented measures to prevent the illegal cross-border movement of persons, and five have partially done so. Two visited States record information on travellers upon entry and exit using a manual system at the borders. All States except one have indicated their intention to implement the WCO Framework of Standards, and all States have implemented some measures in this regard. With respect to maritime security, all States have implemented the IMO ISPS Code. However, there are concerns regarding the irregularity of updates on implementation and testing of security measures, and regarding observed gaps in the implementation of security practices at port facilities in visited States. Implementation of Annex 17 and related security provisions of Annex 9 of the 1944 Convention on International Civil Aviation have been implemented in all States. However, ICAO audits reveal certain gaps, which States are in the process of addressing.

International cooperation: The level of ratification of the international counter-terrorism instruments in the subregion is high. However, enactment of legislation on mutual legal assistance and extradition is still needed in almost all States. In general, States cooperate within the framework of the relevant institutions of the League of Arab States, as well as its Convention (which has a high rate of ratification in this subregion) and of bilateral treaties. Apart from the regular meetings of the Council of Arab Ministers, there is no regular and institutionalized exchange of operation information in the subregion. There is a need to improve cooperation in the exchange of information, as well as to enhance cooperation with States in other regions. Serious concerns have been raised by United Nations human rights mechanisms over failure to respect fully the principle of *non-refoulement*.

General comment

All North African States have adopted legislative counter-terrorism measures. However, these measures often lack the precise definition of criminal behaviour set forth in the international counter-terrorism instruments. This might raise concerns in relation to human rights and the rule of law. Progress has been made in the implementation of AML measures, but not in the implementation of CFT measures. Further progress is needed in making FIUs operational, as FIUs play an essential role in preventing money-laundering and terrorist financing. Law enforcement measures are generally strong, but need to be better coordinated, particularly at the operational level, and should be subject to judicial oversight. Long maritime and land borders continue to pose challenges to border control.

Priority recommendations for future action by the Committee

- **Encourage States to strengthen their legal framework and the capacity of their FIUs and to take adequate steps to protect their NPOs, including conducting risk-assessments**
- **Encourage States to continue enhancing border security at points of entry in order to prevent the illegal cross-border movement of persons, cargo and arms/explosives, as well as currency and other bearer instruments, and to implement the international best codes and standards established by specialized agencies such as ICAO, WCO and IMO**
- **Encourage States to set up judicial oversight programmes of police activities and to promote continued dialogue with relevant international and regional mechanisms aimed at ensuring compliance with international human rights obligations in the context of counter-terrorism.**

East Africa

(Burundi, Comoros, Djibouti, Eritrea, Ethiopia, Kenya, Madagascar, Mozambique, Rwanda, Seychelles, Somalia, Tanzania and Uganda)

The Committee has visited four States of this subregion.

Areas of assessment

Legislation: All States have some legislative measures in place, but they do not fully incorporate the offences of the international instruments to which they are parties. Of the four visited States, two have not yet adopted draft counter-terrorism laws. The other two States introduced counter-terrorism laws more than five years ago, but report no related investigations or prosecutions. Not all States have provided sufficient information on their jurisdiction over terrorist acts, although almost all have introduced partial measures granting them jurisdiction over offences committed on their territories. The principle "aut dedere aut judicare" is not applied throughout the subregion because States did not incorporate it explicitly into domestic law in implementing the international counter-terrorism instruments. In view of the vulnerability of the subregion, more legislative steps to criminalize recruitment should be taken.

Counter-financing of terrorism: Nine States are parties to the International Convention for the Suppression of the Financing of Terrorism. Four States have adopted legislation to criminalize the financing of terrorism, while nine have partial measures in place, but do not yet criminalize the financing of terrorism in accordance with the Convention. Eight States have anti-money-laundering laws in place. Seven have established FIUs but have not yet made them operational. Five States have introduced reporting obligations for terrorist financing. All States except one have legislation in place to regulate charitable organizations. However, only one State has introduced and effectively implements legal provisions to prevent terrorist financing through NPOs. No State has reviewed its NPO sector or conducted a risk assessment for terrorist financing. Only one State has a declaration or disclosure system for regulating cross-border movement of currency.

Law enforcement: Almost all States lack the capacity to conduct investigations or utilize advanced tools such as databases and forensics. There is also a lack of internal coordination at the policy and operational levels. There is also a lack of regional cooperation. There is inadequate oversight of law enforcement by competent judicial and other authorities aimed at ensuring the compliance of counter-terrorism measures with the rule of law and States' international human rights obligations. Although States in the subregion have set up INTERPOL National Central Bureaus, their use of INTERPOL services is hampered by lack of capacity and the failure to extend access to border posts. Seven States have taken steps to regulate the production, sale and transfer of arms and explosives, while six have yet to improve their legislation in this regard. Six States are not yet parties to the UNTOC Firearms Protocol. Eight States have reported on their implementation of the United Nations PoA to Combat the Illicit Trade in Small Arms and Light Weapons (2001)[1], but five have not yet provided the requisite information in this regard.

Border control: Migrant processing procedures/systems are not automated at all ports of entry, and there is very limited capacity to monitor watch lists. States in the subregion control identity travel documents manually. Little information has been provided concerning breeder documents and the integrity of the process for issuing identity cards and passports. Porous borders continue to pose challenges to effective border control, and more needs to be done to develop approaches and regional best practices, such as community policing, to effectively address this gap. The free movement of goods throughout the subregion also represents a significant challenge. Five States do not currently issue machine-readable travel documents (MRTDs). Readers for screening machine-readable passports MRPs are not widely available in the subregion. Eight States have signed the Letter of Intention to implement the World Customs Organization (WCO) Framework of Standards.[2] With respect to the ISPS Code (1974 SOLAS Convention), all Member States, except the landlocked States[3], have designated a national authority responsible for port and ship security and have security plans in place, but implement the relevant requirements only partially. Piracy continues to pose a threat to the subregion. Legislation to control arms and explosives contains no clear provisions on arms brokering and brokers or transit of weapons.

International cooperation: Very few States have adopted laws on extradition and mutual legal assistance. This limits their ability to respond positively to related requests from other States. The level of ratification of the international instruments varies widely. One State is a party to 14 instruments, while its neighbour is a party to only one. In 2009, the Ministers of Justice of the member States of the Intergovernmental Authority on Development (IGAD) agreed on a draft IGAD-wide Convention on extradition and a Convention on mutual legal assistance. The adoption and implementation of both Conventions would enhance cooperation in criminal matters among a large number of East African States. Finally, the United Nations human rights mechanisms have raised concerns over inadequate legal frameworks established by some States to guard against *refoulement*.

[1] United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (2001), http://disarmament.un.org/cab/salw-nationalreports.html.

[2] In GAO-08-538 International Supply Chain Security, GAO (map art), WCO (data).

[3] The ISPS Code is not in force and does not apply in these landlocked States.

General comment

East Africa remains a victim of terrorism, and the terrorist threat to the subregion is high because of continued political instability. Few States have taken legislative and practical counter-terrorism measures that ensure their international human rights obligations are fully respected. All States have cash-based economies, and this increases the risk that terrorist financing will occur via physical cross-border transportation of currency and other bearer instruments or via informal transfers of money and value through alternative remittance systems. In view of the political instability in some parts of the subregion and the increasing threat of piracy, more stringent measures are required to control maritime and land borders and cooperation among law enforcement agencies should be enhanced. Lengthy land and maritime borders will continue to pose a serious challenge to Governments of the subregion. In view of the subregion's porous borders and the impact of armed conflicts, all States should strengthen cooperation and take more stringent measures to implement the latest international best practices and arms control standards.

Priority recommendations for future action by the Committee

- **Promote the adoption of national counter-terrorism legal frameworks that are comprehensive and coherent and include all the terrorist offences set forth in the international counter-terrorism instruments while conforming to international human rights standards**

- **Encourage States to enhance their internal coordination at the policy and operational levels**

- **Encourage States to strengthen efforts to enhance border security at points of entry and to develop approaches and regional best practices, such as community policing, in order to prevent the illegal cross-border movement of persons and the physical cross-border transportation of currency and other bearer instruments, cargo, and arms/explosives, in accordance with international best codes and practices.**

Southern Africa

(Angola, Botswana, Lesotho, Malawi, Mauritius, Namibia, South Africa, Swaziland, Zambia and Zimbabwe)

The Committee has visited one State of this subregion.

Areas of assessment

Legislation: Of this subregion's 10 States, two have comprehensive counter-terrorism laws in place. Counter-terrorism laws have been used successfully in the prosecution of one case, in the visited State. The relevant United Nations mechanisms have expressed concern over the improper application of counter-terrorism provisions in one State. Four States have adequately criminalized terrorist

recruitment, while the remainder have either partially done so, or not criminalized it at all. Four States have introduced adequate legal measures to criminalize the provision of safe haven; four have partially done so; and two have not provided the relevant information. Five States have legislative measures prohibiting the use of their territories to commit or prepare terrorist acts against other States or their citizens. The visited State has adequately established jurisdiction for the relevant offences in its legislation, while the remainder have partially done so.

Counter-financing of terrorism: Six States in the subregion are parties to the International Convention for the Suppression of the Financing of Terrorism. Two have adequately criminalized the financing of terrorism, while three have not done so at all. For some States that have done so partially, the financing of terrorism is not criminalized in accordance with the Convention. Five States have legislation on anti-money-laundering in place, but only two of those States include terrorist financing as a predicate offence. Six States have some measures in place relating to reporting obligations, including for financing of terrorism, but only one State has adequate measures. In most cases, these measures extend to banks, but it is not clear whether they cover other financial, as well as non-financial business and professions. There has been progress in the adoption of measures to establish FIUs. At present, three may be considered operational. Six States have some legislative measures in place to regulate NPOs. Only the visited State has conducted a review of its NPO regulatory framework. However, no State has reviewed its NPO sector or conducted a risk assessment to ensure that NPOs are not misused for the purposes of terrorist financing. Although six States have reported legislative measures relating to the movement of currency (declaration system), there is limited information available on the effectiveness of the role of customs in preventing the illegal physical cross-border transportation of currency and other bearer instruments. However, the Committee was able to gain insight into the application of risk assessment techniques by the visited State, and its increasing success in seizing undeclared bulk cash. The remaining States have not provided sufficient information in this area.

Law enforcement: Four States have set up specialized institutional counter-terrorism structures that are managed by appropriate agencies. The visited State has adopted a comprehensive strategy to combat terrorism and has set up adequate levels of cooperation, information-sharing and coordination of action among its various agencies. All States are members of the Southern African Regional Police Chiefs Cooperation Organization (SARPCCO) and are thus able to share early-warning information. SARPCCO member States have conducted specific operations in respect of crimes involving stolen motor vehicles, arms and ammunition trafficking, and drug smuggling and trafficking. However, only in the visited Member State was it possible to observe the successful efforts of the local INTERPOL NCB to connect relevant law enforcement agencies to INTERPOL information sources. Two States have demonstrated effective oversight of law enforcement activities through the judicial process. Five States are not yet parties to the UNTOC Firearms Protocol. All States have taken some steps to regulate the production, sale and transfer of arms and explosives, but their legislation to control arms and explosives contains no clear provisions on arms brokering and brokers, transit of weapons or Security Council arms embargoes. The SADC Protocol on the Control of Firearms, Ammunition and Other Related Materials is binding upon SADC member States, but its progress has been hampered by the initial lack of a subregional body to coordinate its implementation. The visited State has adopted a five-pillar strategy to the management of firearms and has taken part in regional efforts to eliminate firearms. All States except one have reported on their implementation of the United Nations PoA to Combat the Illicit Trade in Small Arms and Light Weapons (2001), but States in the subregion need to reinforce their programmes and cooperation in this regard and implement the latest international best practices and arms control standards.

Border control: Several States are taking steps to computerize their immigration and citizenship processes. With the exception of the visited State, entry and exit systems for checking passengers at several border points remains manual. Two States plan to update their systems to instantly capture passenger information. In the visited Member State, land crossings are also linked to a central database, and all points of entry have access to a central automated system that captures all travellers' details and contains warning lists that are regularly updated with information received from the various law enforcement agencies. Most States in the subregion are likely to meet the ICAO deadline of April 2010 for the introduction of machine-readable travel documents (MRTDs). Two States in the subregion, including the visited State, plan to introduce e-passports. Four States have reported their national requirements for the issuance of national identity documents, and a further two have proposed legislation for national identity cards. The issue of forged and fraudulently obtained documentation is being addressed through a combination of increased controls and awareness-raising. All States have signed a letter of commitment to implement the WCO Framework of Standards and seven States have signed the revised Kyoto Convention on the Simplification and Harmonization of Customs Procedures. The ISPS code (1974 SOLAS Convention) is in force and applicable in four States of the subregion. Of those four, three have designated a national authority responsible for port and ship security, and two have security plans in place for all ports. Only in the visited State was it possible to assess implementation of other aspects of the ISPS Code (implementation was of an acceptable standard). Annex 17 and related security provisions of Annex 9 of the Convention on International Civil Aviation are partially implemented in four States. The remaining States have not provided sufficient information in this area.

International cooperation: The rate of ratification of the international counter-terrorism instruments varies widely. One State has ratified 13 of the instruments, while three others have ratified at least 10, and three have ratified four or fewer. Four States have introduced comprehensive domestic laws on mutual legal assistance and extradition, while the remainder have either partially fulfilled this requirement or have not done so at all. There are also subregional instruments on cooperation, notably, the Southern African Regional Police Chiefs Cooperation (SARPCCO) Agreement in respect of Cooperation and Mutual assistance in the Field of Combating Crime, concluded in October 1997, the Southern African Development Community Protocol on Mutual Legal Assistance (which has yet to enter into force), and the SADC Protocol on Extradition. Much of the cooperation takes place through SARPCCO. However, there is a lack of information on the practical aspects of cooperation on mutual legal assistance and extradition, with the exception of the visited State, which demonstrated the ability to provide mutual legal assistance.

General comment

Most States of southern Africa have yet to provide information on their implementation of the legislative measures introduced. The rate of ratification of the international instruments varies considerably. Several States have ratified over 10 instruments, but these States need to take further action to incorporate the instruments into domestic law. States with lower levels of ratification should be encouraged to ratify more instruments, as limited progress has been made in this regard. The cash-based economies of States in the subregion are vulnerable to terrorist financing. In order to reduce this risk, States in the subregion should be encouraged to establish FIUs and make them operational, and review the NPO sector to ensure that it is not misused for illegitimate purposes, including that of terrorist financing. The physical cross-border transportation of currency and other bearer instruments also remains vulnerable to terrorist financing, and the cross-border movement and availability of small arms continues to require a coordinated response by all States in the subregion. The region's lengthy maritime and land borders continue to pose challenges to border control.

Priority recommendations for future action by the Committee

- **Encourage States to implement laws adopted to combat terrorism**
- **Encourage States to establish FIUs and make them operational, review their NPO sectors in order to ensure that they are not misused for the purposes of terrorist financing, and regulate and monitor the physical cross-border transportation of currency and other bearer instruments**
- **Encourage States to cooperate within the subregion to combat illegal cross-border movement of small arms and prevent the illegal cross-border movement of persons.**

West and Central Africa

(Benin, Burkina Faso, Cameroon, Cape Verde, Central African Republic, Chad, Congo, Côte D'Ivoire, Democratic Republic of the Congo, Equatorial Guinea, Gabon, Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Sao Tome and Principe, Senegal, Sierra Leone and Togo)

The Committee has visited six States of this subregion.

Areas of assessment

Legislation: The six visited States have partially introduced the necessary legislative measures. Most States have not established adequate jurisdiction for the relevant offences in their legislation. The six visited States have adequate operational measures in place for the suppression of terrorist recruitment. Not all States have established the principle "aut dedere aut judicare" in domestic law. Although almost all States have partially introduced measures to prohibit the use of their territories to commit or prepare terrorist acts, no practical cases have been reported. There is a general lack of institutional and operational capacity to effectively implement the international instruments.

Counter-financing of terrorism: All States except two are parties to the International Convention for the Suppression of the Financing of Terrorism, but only 10 have criminalized terrorist financing in accordance with the Convention. While all States except one have adopted AML laws, only seven have AML/CFT laws in place. In 2007 the eight-State West African Economic and Monetary Union (WAEMU) adopted a Community Directive on combating the financing of terrorism to complement the AML regime. However, only two WAEMU States have incorporated the Directive into its national legislation. In 2003 the six-State Economic Community of Central African States (CEMAC) adopted a Community Regulation on combating money-laundering and financing of terrorism. Community Regulations are self-executing. Only seven States have included financing of terrorism as a predicate offence to money-laundering and extended the reporting obligation to terrorist financing. Customer due diligence (CDD) obligations apply to relevant non-professional businesses or professions, but do not all apply to those entities. All States in the subregion, except three, have established FIUs, but their capacity needs to be enhanced. Only two FIUs - both in West Africa - are operational. (This compares to one in the previous survey.) Although all States in the subregion have some legal measures in place to regulate charitable organizations, legal provisions designed to prevent terrorism financing through NPOs need to be enacted and implemented effectively. No State has reviewed its NPO sector or

conducted a risk assessment for terrorist financing. Legal requirements on the cross-border movement of currency (declaration system) exist in most States (notably in WAEMU and CEMAC States) but have not been implemented in almost all States.

Law enforcement: Several States have established dedicated or specialized counter-terrorism law enforcement units, but there remains a lack of internal coordination at the policy and operational levels. Almost all States have established an INTERPOL NCB, but the use of INTERPOL data is not uniform and most NCBs are not connected to all border posts. The effectiveness of the system is undermined in almost all States by manual processing of information. Some States have yet to address human rights concerns related to terrorism cases. This is reflected in exceptional periods of police custody and limits on access to counsel. All States have taken some steps to regulate the production, sale and transfer of arms and explosives, but legislation to control arms and explosives contains no clear provisions on arms brokering and brokers, transit of weapons, or Security Council arms embargoes. Twelve States have yet to become parties to the UNTOC Firearms Protocol. All States except one have implemented the United Nations PoA to Combat the Illicit Trade in Small Arms and Light Weapons (2001)[4] but, owing to porous borders and armed conflicts, all States still need to reinforce their programmes and cooperation and implement the latest international best practices and arms control standards.

Border control: Most West African States have partially introduced measures to detect forged travel documents, but the security and integrity of the procedures for issuing identity papers and travel documents could be significantly enhanced. The Central African States have provided insufficient information in this regard. Since the previous Survey, one visited State has implemented a computerized civil registry that secures the issuance of such documents. Other States still rely on a mixed computerized and manual system. Only two States have yet to introduce MRTDS, and two others issue non-ICAO compliant MRTDs. Readers for screening MRPs are not widely available in the subregion or utilized at border gates. Several States use the WCO Enforcement Network (CEN) to share Internet-based information, and communicate at both the regional level, through RILOs, and the global level. All States have partially implemented measures to prevent the illegal cross-border movement of persons, but lengthy maritime and land borders will continue to pose challenges to border control. All States have signed a letter of commitment to implement the World Customs Organization (WCO) Framework of Standards and have partially implemented the requisite measures. With respect to the ISPS Code (1974 SOLAS Convention), all States except landlocked States have designated a national authority responsible for port and ship security. Except in the case of one visited State, there is insufficient information to allow an assessment of the implementation of the Code in the subregion. Annex 17 and related security provisions of annex 9 of the 1944 Convention on International Civil Aviation have been only partially implemented in the subregion.

International cooperation: States of the subregion need to strengthen their domestic legal framework to improve their cooperation in criminal matters, in particular through the enactment of laws governing extradition and mutual legal assistance. The rate of ratification of the international counter-terrorism instruments varies widely. States cooperate with one another primarily through bilateral treaties. The African Centre for the Study and Research on Terrorism (ACSRT) provides a platform for cooperation. The operational exchange of information is hampered by lack of institutional and operational capacities and by linguistic challenges. United Nations human rights mechanisms have expressed concerns about most States' inadequate legal frameworks to guard against *refoulement*.

[4] United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (2001), http://disarmament.un.org/cab/salw-nationalreports.html.

General comment
Most States have yet to take legislative and practical counter-terrorism measures that conform to international requirements, including human rights standards. Almost all States in the subregion have predominantly cash-based economies, and this increases the risk that terrorist financing will occur via physical cross-border transportation of currency and other bearer instruments, or via informal transfers of money and value through alternative remittance systems. While AML laws and, in some cases CFT laws, are in place, the level of implementation is low. The capacity of FIUs in the subregion needs to be enhanced. In general, institutional and operational measures need to be taken to ensure the effective implementation of the relevant legislative measure, where they exist. The lack of internal cooperation, at both the policy and operational levels, hampers the effective implementation of counter-terrorism measures. Lack of capacity - in particular the lack of technical and financial resources - is also a problem in this regard. The lengthy maritime borders and porous land borders of some States will continue to pose serious challenges to the border control efforts of all States of the subregion. A related initiative, developed by 20 member States of the Maritime Organization of West and Central Africa (MOWCA) and approved by IMO, should address the challenges posed by maritime borders. Adequate national and joint measures should be taken by neighbouring States to secure their borders, and relevant States should take measures to overcome linguistic barriers to bilateral cooperation, particularly at the operational level. Lack of reporting by the States of Central Africa regarding many areas of law enforcement and border control has hampered the assessment of whether measures to combat terrorism actually exist and are being effectively implemented. States are urged to report to the Committee on the policies and controls being developed and utilized in implementing international best codes and practices in these areas.
Priority recommendations for future action by the Committee
• **Promote the adoption of national counter-terrorism legal frameworks that are comprehensive and coherent and include all terrorist offences set forth in the international counter-terrorism instruments while also conforming to international human rights standards** • **Encourage States to enhance their internal coordination at the policy and operational levels** • **Encourage States to enhance maritime and land border security at points of entry in order to prevent the illegal cross-border movement of persons, the physical cross-border transportation of currency and other bearer instruments, cargo and arms/explosives.**

ASIA

East Asia

(China, Democratic People's Republic of Korea, Japan, Mongolia and Republic of Korea)

The Committee has visited one State of this subregion.

Areas of assessment

Legislation: Four States (two more than in the previous survey) have adequately criminalized in their domestic legislation the offences set forth in the counter-terrorism instruments and have established adequate jurisdiction over the offences. Three States have not adequately criminalized in domestic law the provision of safe haven to terrorists and their supporters or the use of their territories to commit or to prepare terrorist acts against other States or their citizens. Three States apply the principle of "extradite or prosecute", and four have provisions in place to suppress recruitment for terrorist purposes but have provided little information about how they do so in practice. United Nations human rights mechanisms have raised concerns about some States' imprecise legal definitions of terrorist activity.

Counter-financing of terrorism: All States but one are parties to the International Convention for the Suppression of the Financing of Terrorism. Two States criminalize the financing of terrorism in accordance with the Convention and one is reviewing its provisions to include all required elements of the offence. Four States have enacted anti-money-laundering legislation, and three have extended the reporting obligation to cover terrorist financing. Four States have set up FIUs, of which three are operational, and two have introduced legal provisions to regulate the activities of NPOs. Two States need to strengthen their relevant legislation, and no State has reported fully on its activities in this regard. One State adequately regulates alternative remittance systems, but the remaining States need to enhance or introduce regulations and strengthen their monitoring of such activities. All States need to enhance their institutional and regulatory mechanisms to ensure that the alternative remittance sector is not exploited for terrorist purposes. All States but one have extended customer due diligence and reporting obligations, but have exempted a number of relevant non-financial businesses and professions. All States but one have introduced controls on the physical cross-border movement of cash and other monetary instruments. Two States have introduced provisions allowing individuals to appeal against freezing actions.

Law enforcement: Four States have set up central bodies, comprised of heads of law enforcement agencies and ministries with an interest/mandate in national security, responsible for developing and implementing counter-terrorism strategies and coordinating the counter-terrorism efforts of the agencies concerned. Four States have set up national law enforcement units equipped with appropriate tools to work on counter-terrorism measures and initiatives and supported by legislative mandates. Except in the case of one State, there is insufficient information to determine the effectiveness of law enforcement efforts or relevant oversight. The United Nations human rights mechanisms have expressed concern over cases of alleged violations by law enforcement agencies. Four States have set

up mechanisms - based on membership in national coordination committees and memorandums of understanding - for cooperation and coordination among law enforcement agencies engaged in combating terrorism. Three of those States have set up robust mechanisms, backed by appropriate legislative provisions, for cooperation and information-sharing with counterpart law enforcement agencies in other States. All States have taken some steps to regulate the production, sale and transfer of arms and explosives, but the domestic legislation of some of the States contains no clear provisions on arms brokering, transit of weapons or Security Council arms embargoes. Three States have implemented the United Nations PoA to Combat the Illicit Trade in Small Arms and Light Weapons (2001). The two States that have not reported on the PoA have also failed thus far to set up a national enforcement programme to combat arms smuggling. One State is not yet a party to the UNTOC Firearms Protocol.

Border control: Four States have introduced procedures for the screening of travellers against national databases of individuals of interest to the authorities, and use modern equipment to detect falsified travel documents. These States report the implementation of control measures to ensure the integrity and security of the travel document issuance process. Four States issue machine-readable passports in compliance with international standards for document security. All States have introduced laws to criminalize illegal migration and human smuggling, and four take active steps to pursue offenders. Three States are parties to the 1951 Convention on Refugees, but two of those States have not provided sufficient information to determine whether an effective regime for detecting terrorist asylum-seekers is in place. Four States have signed the WCO Letter of Intent to implement the SAFE Framework of Standards in an effort to ensure the security of cargo against exploitation for terrorist purposes, and three have achieved an advanced stage of implementation. Four States have introduced legislation to implement standards and practices to ensure the security of civil aviation. All States have been audited by ICAO through its Universal Security Audit Programme. Three States have established a legal framework to address requirements for maritime security and have partially implemented international mandatory standards for port and ship security in accordance with the IMO ISPS Code. Three States have introduced stringent controls on the cross-border movement of arms, ammunition and explosives, as well as nuclear, chemical and biological material and their means of delivery.

International cooperation: With the exception of one State, which has provided very little relevant information, the region has achieved a relatively high rate of ratification of the international counter-terrorism instruments. (The lowest level of ratification is 11.) The three most recent instruments have not yet been ratified by any State in the region. Four States have introduced legal provisions to enable extradition, mutual legal assistance and information-exchange and have entered into relevant bilateral treaties or other arrangements with other States. Two States could increase the number of such arrangements with other States in order to enhance their cooperation efforts. Three States have introduced procedures prohibiting the extradition of individuals to States in which they may risk torture or persecution. Two States have not provided information about their *refoulement* practices/procedures. International human rights mechanisms have expressed concern at the lack of adequate legal safeguards in the extradition procedures of two States.

General comment

Terrorism is generally considered to be a significant concern in this subregion. Three States have made a concerted effort to address terrorism in their national programmes; four have reported fairly comprehensively on their progress in enacting legislative provisions and regulations to implement resolution 1373 (2001). However, few details about practical implementation have been provided. The

legislation enacted is not always entirely consistent with the international norms, and more work needs to be done in this regard. On the whole, the subregion - with the exception of one State, which has provided scant information on its efforts to implement the resolution - has put in place the strategies, institutions and practical measures required to address national security threats.

Priority recommendations for future action by the Committee

- **Encourage States to review their domestic legislation in order to bring it more effectively into line with international norms in a number of areas, including in the regulation of alternative remittance systems, the use of their territories to prepare terrorist acts, and denial of safe haven**
- **Encourage further improvement in cooperation and information-exchange among domestic law enforcement agencies**
- **Encourage States that have not done so to establish effective mechanisms aimed at identifying persons seeking refugee protection while ensuring the exclusion of those undeserving of international refugee protection.**

Pacific Islands

(Fiji, Kiribati, Marshall Islands, Micronesia (Federated States of), Nauru, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu)

The Committee has visited no State of this subregion.

Areas of assessment

Legislation: Few States have fully codified the terrorist offences in their domestic legislation. In the case of seven States, legal provisions on the jurisdiction of the courts do not provide the scope required by the relevant international instruments to which they are parties, although the principle of "prosecute or extradite" is applied by most States. Six States criminalize recruitment to terrorism, but no State has provided information on efforts to suppress recruitment. Two States have recourse to special criminal procedures, such as preventive detention and "special powers" for certain investigative techniques. However, no information has been provided about accompanying safeguards.

Counter-financing of terrorism: Ten States are parties to the International Convention for the Suppression of the Financing of Terrorism. Six of those States have adequately criminalized the financing of terrorism. (Only two had done so at the time of the previous survey.) All States have set up FIUs, of which three are operational. The remaining FIUs operate at various levels of efficiency and effectiveness, and will require technical assistance to develop their capacity to meet international standards in this regard. Although all States have recently adopted anti-money-laundering legislation, in most cases the relevant provisions contain shortfalls, including the omission of terrorist financing on the list of predicate offences to money-laundering, and the exclusion of certain relevant non-financial

businesses and professions from the list of entities obliged to provide reports on suspicious transactions to the FIU and carry out customer due diligence and record keeping. Although most States have introduced laws to control the movement of cash and other monetary instruments across borders, no information has been provided about implementing measures at the borders. Seven States have enacted legislation to regulate non-profit organizations, but most have not implemented measures to prevent terrorist financing through such organizations. The regulation and monitoring of alternative remittance systems remains a challenge for most States.

Law enforcement: Ten States have set up national security bodies (sometimes called "Combined Law Agency Groups") or high-level central offices, composed of heads of law enforcement bodies, ministries of justice and prosecutors, to develop common counter-terrorism strategies and approaches, guide law enforcement efforts and coordinate domestic security matters. Law enforcement agencies employ various mechanisms to maintain the rule of law, such as working closely together and actively enforcing legislation. Three States have set up transnational crime units to investigate terrorism and other crimes. However, States' reports do not contain information about law enforcement mechanisms or specific exceptional criminal procedures or special investigative techniques. All States have set up mutual legal assistance arrangements to facilitate regional and international cooperation and exchange of information, and regional law enforcement are also used. However, only five States are members of INTERPOL. Domestically, law enforcement agencies rely on relevant legislative provisions, memorandums of understanding and membership in national central bodies for cooperation, coordination and information-exchange. No State has provided information on practical mechanisms in this regard. All States in the Subregion have enacted laws to control the manufacture, possession, acquisition, sale transfer, transport, supply, etc., of small arms and ammunition, but legislation to control arms and explosives contains no clear provisions on arms brokering, transit of weapons or Security Council arms embargoes. Four States have implemented the United Nations PoA to Combat the Illicit Trade in Small Arms and Light Weapons (2001). Eight States need to set up national enforcement programmes to combat the smuggling of weapons. Only one State is a party to the UNTOC Firearms Protocol. Too little information is available to determine the overall institutional or operational approach taken by Governments to combat terrorism or oversee counter-terrorism activities. Governments appear to regard the terrorism threat as low, and consequently devote law enforcement resources primarily to the investigation of ordinary crimes.

Border control: All States have enacted immigration and passport laws to regulate immigration and travel document issues. Nine States have introduced some legislative controls on the issuance of identity and travel documents. Eight States issue machine-readable passports, two are taking steps to do so, and two are not expected to meet the ICAO deadline of 1 April 2010 for their introduction. All States appear to screen travellers on arrival and departure, but in the case of nine States, the nature of the data used is unclear. Three States report that they screen travellers against national databases. No State has provided adequate information on practical control measures put in place to secure the document issuance process or to detect offenders at border points. States of the subregion have not indicated the procedures or mechanisms used to detect the presence of illegal immigrants or aliens in their territories. Only two States have signed the WCO Letter of Intent to implement the SAFE Framework of Standards. No information has been provided regarding controls on small arms by customs. Two States that are surrounded by large bodies of water have made concerted efforts to enhance their inspection of arriving vessels. Most States have introduced legislation to establish national aviation security authorities and implement aviation security standards, but very few States provided information on their implementation of the relevant annexes to the "Chicago Convention". ICAO has conducted audits of three States in the subregion. Reports provided to IMO indicate that

seven States appear to have implemented aspects of the ISPS Code, including development of port facility security plans (PFSPs). It appears however, that States have not been updating their security plans periodically on the basis of security audits/testing as required under the Code. The available information does not present a clear picture of the implementation of aviation, maritime or cargo security measures, border controls, or enforcement programmes in place to ensure that small arms do not fall into the hands of unauthorized individuals.

International cooperation: The subregion has achieved a reasonable level of ratification of the international counter-terrorism instruments. Six States have ratified 10 or more instruments (with one State having ratified all 16), one State has ratified eight, and three have ratified seven. However, two States have ratified only two and one, respectively. Although all States have enacted extradition and mutual legal assistance legislation, it is not possible to determine the scope and number of bilateral and multilateral treaties and arrangements, or the degree of cooperation and coordination, because the necessary information has not been provided. Exchange of information about crime and about legislative approaches to combat crime is mostly limited to the region and neighbouring jurisdictions, and is accomplished largely via regional bodies, supported by regional declarations.

General comment

As most of the information available about this subregion concerns legislative progress, it is not possible to assess the effectiveness of practical implementation. Pacific Islands States appear largely concerned with domestic issues because they perceive the terrorist threat to be low. However, terrorism continues to affect certain South Asian States, and it is not unrealistic to suppose that this type of crime may spread to the PIF subregion, especially if the relevant financial, law enforcement and border control measures are not strengthened.

Priority recommendations for future action by the Committee

- **Encourage PIF States to review their criminal laws in order to ensure that offences in each of the designated categories are properly criminalized; and encourage States that have not enacted counter-terrorism legislation to do so**
- **Encourage States to build the capacity of their FIUs and the capacity of law enforcement agencies to investigate financial and terrorism-related crime**
- **Encourage States that have not done so to become members of INTERPOL and set up counter-terrorism units to address potential terrorist threats.**

Southeast Asia

(Brunei Darussalam, Cambodia, Indonesia, Lao People's Democratic Republic, Malaysia, Myanmar, Philippines, Singapore, Thailand, Timor-Leste and Viet Nam)

The Committee has visited eight States of this subregion.

Areas of assessment

Legislation: Five States have specific counter-terrorism laws in place, and three have incorporated counter-terrorism provisions into their existing laws. Three States rely on conventional legal provisions to prosecute terrorist acts. Five States have legislation in place to punish various forms of assistance to terrorism as autonomous offences, and four specifically criminalize recruitment of members of terrorist groups. Most States have established adequate jurisdiction in accordance with the international instruments. All States except one have limited capacity to bring terrorists to justice, owing to deficiencies of expertise and equipment. Four States allow preventive detention of terrorist suspects without charge and judicial commitment, which has been the subject of concern on the part of the United Nations human rights mechanisms.

Counter-financing of terrorism: All States except one are parties to the International Convention for the Suppression of the Financing of Terrorism, but five States have not yet criminalized the financing of terrorism. Some States do not criminalize money-laundering in accordance with international norms. Two States have not yet included the financing of terrorism as a predicate offence to money-laundering. Overall, AML/CFT regimes in the subregion have greatly improved. All States have introduced customer due diligence. All States except one have established FIUs, and at least five have established operational FIUs. Although the reporting obligation covers terrorist financing in most States, only two States extend the obligation to relevant non-financial businesses and professions. Cash couriers are regulated in most States, but implementation is insufficient in several States. Only some States have introduced effective mechanisms to freeze terrorist funds and assets without delay. Four States have no freezing mechanism except criminal seizure. At least four States exercise strong supervision over social activities and appear to control the non-profit sector. Other States rely on general legislation to regulate the non-profit sector, but their capacity implementation this legislation is fairly weak. Few States have conducted a risk assessment of the non-profit sector and alternative remittance systems.

Law enforcement: One State has not provided sufficient information in this area. Nine States have established a special counter-terrorism body to strengthen information-exchange and coordination. Law enforcement agencies in most States are relatively well-structured. Many law enforcement officers in the subregion have been trained at regional institutes such as JCLEC, in Indonesia; SEARCCT, in Malaysia; and ILEA, in Thailand. Law enforcement agencies in at least two States have conducted active, coordinated operations to combat the recruitment of members of terrorist organizations and terrorist training facilities. All 10 States of the Association of Southeast Asian Nations (ASEAN) have strengthened cooperation within regional bodies. The ASEAN Chiefs of Police (ASEANAPOL) has established its own database by exchanging information with, and working closely with INTERPOL. Most States have legislation in place to control SALW. However, with the exception of two States, legislation to control arms and explosives lacks clear provisions on arms brokering, transit of weapons and Security Council arms embargoes. Five States have yet to report to the United Nations Plan of

Action on their efforts to combat illicit arms trafficking, and nine are not yet parties to the United Nations Transnational Organized Crime Firearms Protocol.

Border control: Most States have introduced immigration laws, but information on the implementation of laws governing the cross-border movement of people is insufficient in several States. There has been progress in the region in applying IT solutions to national ID cards and travel documents. All States except one have introduced machine-readable travel documents, and at least five States have introduced biometric features into their passports and ID cards. Few States have established a direct online connection to the INTERPOL I-24/7 database at border points. ICAO has conducted a USAP audit of nine States, identifying strengths and shortfalls and revealing room for improvement in many areas. Nine States implement, to some degree, the WCO Safe Framework of Standards. Although most States have appointed designated authorities to implement SOLAS regulations and the ISPS Code, there remains a need to strengthen maritime security in the region. Only three States are parties to the "Refugee Convention" and its Protocol, and few have established a legal framework or institutions to screen asylum-seekers.

International cooperation: Although one State is a party to no international counter-terrorism instruments, the ratification level for the remaining States ranges from 6 to 12. No State has ratified the three instruments adopted in 2005. One State has not provided information in this area, but most have introduced laws on extradition and mutual legal assistance in criminal matters (MLA). However, half of the States of the region need to provide more details about their procedures. Five States are unable to render extradition and MLA based on the principle of reciprocity. Six States have ratified the ASEAN Treaty on MLA adopted in 2004 and may render MLA to one another in consequence. ASEAN States have expanded counter-terrorism cooperation through the ASEAN Regional Forum (ARF) and the Asia-Europe Meeting (ASEM).

General comment

This subregion has a long history of combating terrorism and has therefore developed relatively effective counter-terrorism measures. Sustained national counter-terrorism efforts and international and regional cooperation have reduced the number of terrorist incidents in the region. The use by some States of preventive detention of terrorist suspects without charge or judicial commitment has been the subject of concern on the part of the United Nations human rights mechanisms. States in the region have been actively engaged in enhancing interfaith and inter-cultural dialogue in order to combat terrorist recruitment. Many attach importance to community policing and have developed special programmes to rehabilitate terrorists in detention. ASEAN States closely cooperate with one another in formulating and improving counter-terrorism policies and exchanging information through various mechanisms, including the ASEAN Ministerial/Senior Officials Meeting on Transnational Crime (AMMTC/SOMTC). ASEAN adopted the Convention on Counter-Terrorism in 2007, but this Convention has not entered into force. States in the region are encouraged to continue to take steps to bring the Convention into force.

Priority recommendations for future action by the Committee

- **Encourage States to accelerate the development of comprehensive and coherent counter-terrorism legal frameworks in compliance with the international counter-terrorism instruments and to enhance their criminal justice systems in order to bring terrorists to justice while upholding international human rights obligations**

- **Encourage States to criminalize the financing of terrorism and money-laundering, to introduce/improve freezing mechanisms for terrorist funds and assets, to train STR analysts, and to conduct risk assessment in the NPO/ARS sector**

- **Encourage States to ensure that all officers engaged in terrorist screening enjoy a direct connection to the INTERPOL I-24/7 database and other terrorism-related databases.**

South Asia

(Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka)

The Committee has visited three States of this subregion.

Areas of assessment

Legislation: Two of the eight States in this subregion have adequate legislation in place covering all the relevant terrorist offences. Three further States have introduced legislation covering only some of the offences. Five States have introduced specific legislation to suppress recruitment for terrorism and prohibit the use of their territories to commit or prepare terrorist acts against other States or their citizens. Four States have introduced legislation criminalizing the provision of safe haven to terrorists and their supporters by individuals or organizations. Four States uphold the principle of "aut dedere aut judicare". The jurisdiction of courts in five States extends to acts committed outside a State's territory by its nationals (whether or not the individual is currently within the State's territory). Furthermore, the jurisdiction of courts in four States extends to acts committed outside a State's territory by foreign nationals currently within the State. United Nations human rights mechanisms have raised concerns over special counter-terrorism provisions which curtail certain rights in some States and could create difficulties for international legal cooperation. Very few States have comprehensively updated their legal framework to include specific counter-terrorism laws. Most States have thus far preferred instead to introduce limited amendments to their Penal Codes.

Counter-financing of terrorism: All States but one are parties to the International Convention for the Suppression of the Financing of Terrorism. Four States have specifically criminalized the financing of terrorism, and two have introduced measures that partially criminalize this activity. Four States have comprehensive AML/CFT laws in place, while three more have adopted laws that partially address this issue. In addition to the two States noted in the previous survey, two more States now have operational FIUs in place. The newly established FIUs are currently building up their operational capacities. An additional State has established the legal basis to create an FIU. In general, the FIUs in the region are open to engaging actively with their counterparts in other regions that have a longer history of operational experience. All eight States have legislation in place to regulate charitable organizations. In four cases, this legislation appears to be reasonably comprehensive, but in the three States visited by the Committee it appeared that implementation of counter-financing of terrorism measures in respect of charities was not sufficiently responsive to the terrorist financing risk faced by the region. Three States are taking steps to implement measures on cash couriers, and five have introduced measures relating to financial transfers through informal remittance systems. The reporting obligation for financial

institutions extends to money-laundering and financing of terrorism in all eight States, but in four cases the obligation should be strengthened in order to guarantee effective implementation. A reporting obligation for financial institutions and other intermediaries exists in four States.

Law enforcement: All three visited States have introduced a comprehensive strategy to combat terrorism and have taken steps to develop specialized institutional counter-terrorism structures and measures managed by relevant agencies. In these States, there is an awareness of the importance of cooperation, information-sharing and coordination among the different agencies, and between the regional and national levels. All three visited States have played an active role in creating specialized counter-terrorism police units and in ensuring that those units are provided with the necessary training and tools to carry out their duties in a range of counter-terrorism related disciplines. United Nations human rights mechanisms have, however, identified serious concerns related to excessive use of force in the subregion, and challenges remain in respect of efforts to institutionalize human rights safeguards in the work of law enforcement entities. Four States have not yet reported to the United Nations Programme of Action on their national programmes to combat illicit arms trafficking, and seven States are not yet parties to the UNTOC Firearms Protocol.

Border control: Four States have introduced measures to control the issuance of identity papers and travel documents. However, effective implementation is hampered in some cases by large populations and by vulnerabilities in civil registry systems. One visited State has successfully introduced a sophisticated, computerized civil registry that secures the issuance of identity and travel documents. Five States issue machine-readable travel documents (MRTDs), and it is expected that the remaining three States will meet the ICAO April 2010 deadline for their introduction. Porous land borders pose challenges to almost all States. In response, four States have introduced effective measures to penalize the movement of undocumented persons across State borders. Information regarding the effectiveness of such measures is not, however, available. It should be noted that no State in the subregion has introduced a domestic law on asylum. Moreover, only one State is a party to the 1951 Geneva Convention relating to the Status of Refugees. The current situation thus does not allow for the systematic screening of refugees for potential links with terrorism and other serious criminal activity. Seven States have expressed their intention to implement the WCO SAFE Framework of Standards.

International cooperation: Five States have ratified more than 11 of the international counter-terrorism instruments, and the remaining three have ratified an average of seven instruments. Three States have in place a robust legal framework to support mutual legal assistance and extradition requests, and four others have a partial structure in place. The framework for cooperation with the region was recently strengthened through the South Asian Association for Regional Cooperation (SAARC) Convention on Mutual Assistance in Criminal Matters, which was signed by all members of SAARC on 23 August 2008. The SAARC Regional Convention on the Suppression of Terrorism and the Additional Protocol to the SAARC Regional Convention on Suppression of Terrorism also provide a framework for operational cooperation among States in the region. While there exists, therefore, a legal basis for States in the subregion to cooperate in counter-terrorism matters, achieving practical cooperation beyond the scope of limited bilateral arrangements continues to be a challenge.

General comment

South Asian States have suffered greatly from terrorism and all have introduced counter-terrorism mechanisms. However, the lack of counter-terrorism legislation conforming to international standards and specialized counter-terrorism operational capacity limits the effectiveness of those mechanisms.

Improvements in financial regulations are reflected in the establishment of the FIUs, but greater regional cooperation at the operational level is required at various levels. One positive development in this regard is the recent signing of the SAARC Convention on Mutual Assistance in Criminal Matters. There has been notable progress in the legal framework of one visited State, which has passed both an Anti-Terrorism Act and a Money-Laundering Prevention Act, since the previous survey.

Priority recommendations for future action by the Committee

- **Encourage States to take adequate steps to protect their non-profit sectors from abuse for the purposes of terrorist financing**
- **Further development of specialized counter-terrorism expertise among law enforcement personnel, judges, prosecutors and lawyers, with due regard for international human rights obligations**
- **Strengthen mechanisms to promote counter-terrorism cooperation at the operational level among law enforcement officials in the region.**

Central Asia and the Caucasus

(Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan)

The Committee has visited three States of this subregion.

Areas of assessment

Legislation: Five of the eight States in the subregion have introduced basic counter-terrorism legislation. Six States have adequately criminalized terrorist recruitment, and some have also provided information regarding practical measures adopted to prevent recruitment. Three States have put in place legislation codifying terrorist offences in accordance with the international counter-terrorism instruments, but have provided insufficient information about the practical application of this legislation. Four States have adequate legal measures in place criminalizing the provision of safe haven, while one has partially done so. The remaining States have not provided sufficient information in this regard. Seven States have put in place legislation prohibiting the use of their territories to commit or prepare terrorist acts against other States or their citizens. All eight States have put in place legislation to extend the jurisdiction of their courts to acts committed outside their territories by their nationals and to acts committed by foreign nationals in their territories. All have put in place legislation providing for "aut dedere aut judicare".

Counter-financing of terrorism: All States are parties to the International Convention for the Suppression of the Financing of Terrorism. However, only three criminalize the financing of terrorism in accordance with the Convention. Five States have recently adopted long-pending draft AML/CFT legislation, but only two have comprehensive legislation in place. Four States have established terrorist financing as a predicate offence to money-laundering, and four have enacted legislation extending the reporting obligation to money-laundering terrorist financing. Only two States have extended the

reporting obligation to financial institutions and relevant non-financial businesses and professions. Three States have established operational FIUs. Only one State has enacted legislation prescribing penalties for non-compliance with reporting obligations. Four States have legislation and regulations in place governing the operations of non-profit organizations (NPOs), while two have introduced partial legislation, and the remaining two have no relevant legislation in place. Five States have a declaration or disclosure system in place to monitor the cross-border movement of cash. However, those States face challenges in implementing measures to combat cash couriers. The remaining three States have provided no information in this regard.

Law enforcement: Five States have introduced laws regulating the participation of law enforcement and other security agencies in the national counter-terrorism effort. Some States have created a national agency or centre in order to improve coordination among counter-terrorism agencies. A recent visit to one State revealed a lack of coordination among the relevant agencies. The level of interagency cooperation and coordination needs to be improved in all States. All States participate in regional mechanisms on law enforcement cooperation, but political tensions make cooperation at the practical level difficult. There is a need to strengthen the practical effectiveness of oversight mechanisms for law enforcement bodies, in view of concerns over abuses that have been expressed by United Nations human rights mechanisms. All States have taken some steps to regulate the production, sale and transfer of arms and explosives, but legislation to control arms and explosives contains no clear provisions on arms brokering, transit of weapons, or Security Council arms embargoes. Six States have implemented the United Nations PoA to Combat the Illicit Trade in Small Arms and Light Weapons (2001), but two have yet to report to the United Nations PoA and set up a national enforcement programmes to combat arms smuggling. Five States are not yet parties to the UNTOC Firearms Protocol. Illegal SALW can still be easily obtained and traded in some States. The suppression of arms trafficking should be a priority for law enforcement authorities in the subregion.

Border control: Five States have legislation in place to control illegal migration and human smuggling. Three have established procedures for determining the true identity of persons prior to the issuance of identity documents. Most States issue machine-readable passports (MRPs), but one State's MRPs are not compliant with ICAO standards. In three States, either border police do not possess sufficient capacity to detect forged travel documents or border surveillance mechanisms are inadequate. Four States have strict regimes for screening refugees and asylum-seekers, while three have adopted some legislation aimed at bringing asylum procedures into line with international standards. Some States have introduced rigorous border control mechanisms, but cooperation in regional border management is still problematical owing to political tensions and existing conflicts. There are reports that legal systems are being abused through procedures such as arbitrary detention, imprisonment and surveillance.

International cooperation: Seven States are parties to 13 of the international instruments, and one State is a party to 12. However, only one State has ratified one of the three most recent counter-terrorism instruments (the 2005 Amendment to the Convention on the Physical Protection of Nuclear Material). The level of cooperation within the region overall is quite high, with States participating in relevant regional forums. Many States are parties to bilateral and multilateral treaties by virtue of their membership in regional organizations. This is particularly the case for members of the Commonwealth of Independent States (CIS), seven of which are members of the CIS and the Anti-Terrorism Centre (ATC) and participate in meetings, workshops and joint counter-terrorism exercises. The CIS member States have engaged in mutual legal assistance in the prosecution of terrorism-related crimes. Four of these States are members of the Shanghai Cooperation Organization Regional Anti-Terrorist Structure

(SCO RATS), which organizes exercises and programmes relating to security and counter-terrorism. All States have introduced adequate domestic laws on mutual legal assistance and extradition into their Criminal Codes and Codes of Criminal Procedure.

General comment

Terrorism is a significant concern in this region, which is frequented by terrorist cells and entities listed in the United Nations Consolidated List. Although most States have adequately established jurisdiction for the relevant offences by incorporating them into their national legislation and/or ratifying the relevant international conventions and protocols, substantial shortfalls have been identified in their codification of the terrorist offences in domestic law. Regional cooperation to combat terrorism and extremism has been strengthened. Law enforcement and border control remain the most challenging areas in all these States. The capacities of law enforcement agencies and other security bodies remain inadequate. There appears to be a need for technical assistance and training in areas such as human resources, prosecution, respect for human rights, and international cooperation. The handling of refugees and preventing the abuse of refugee and asylum systems by terrorists continue to present significant challenges.

Priority recommendations for future action by the Committee

- **Encourage States to introduce comprehensive counter-terrorism legislation to adequately cover all offences, including the financing of terrorism**

- **Encourage States to build the capacity of their prosecutorial and judicial agencies in order to deal effectively with serious offences, including acts of terrorism, and to take advantage of law enforcement and other training opportunities to enhance the implementation of counter-terrorism laws and improve coordination among their law enforcement structures**

- **Encourage States to increase the exchange of information among regional border control authorities and to enhance border security at points of entry in order to prevent the illegal cross-border movement of persons, cash and bearer negotiable instruments, cargo, and arms/explosives.**

Western Asia

(Bahrain, Iran (Islamic Republic of), Iraq, Jordan, Kuwait, Lebanon, Oman, Qatar, Saudi Arabia, Syrian Arab Republic, United Arab Emirates and Yemen)

The Committee has visited three States of this subregion.

Areas of assessment

Legislation: All States have established a comprehensive legislative counter-terrorism framework, but only one has incorporated all the offences of the international instruments into its domestic legislation. Two States have criminalized recruitment, and all but one of the remainder have partially undertaken legislative measures in this regard. Six States have taken partial measures to criminalize safe haven, one has not criminalized it, and the other five have not provided relevant information. Nine States have introduced legislative measures to prohibit the use of their territories for terrorist attacks; one State has not yet done so; and a further two have not yet provided information in this regard. All States have partially introduced measures to extend court jurisdiction to terrorist acts committed abroad. Most States have the capacity to investigate terrorist cases. Perpetrators of terrorist acts have been brought to justice. However, several States rely on overly broad legal definitions and special criminal procedures that have raised concerns among United Nations human rights mechanisms and could present difficulties in respect of international cooperation.

Counter-financing of terrorism: Only five States in the subregion are parties to the International Convention for the Suppression of the Financing of Terrorism. Four States have partially criminalized terrorist financing and only one has criminalized this offence in accordance with the Convention. All States have enacted money-laundering legislation, but only two have established terrorist financing as a predicate offence. Five States have extended the reporting obligation to the financing of terrorism; four have partially done so; two States have not; and a further State has not provided relevant information. Eight States have established an FIU, and five of those FIUs are operational. All have some legislative measures in place to regulate NPOs. Two visited States have conducted a review of their regulatory framework on NPOs, but none has reviewed its NPO sector or conducted a risk assessment to ensure that terrorist NPOs are not misused for terrorist financing purposes. Nine States have extended the reporting obligation to some non-financial businesses and professions. Nine have also introduced legislative measures to regulate the physical cross-border transportation of currency and other bearer instruments, two have not taken any measures, and one has not provided relevant information. All States need to enhance their operational measures in this regard.

Law enforcement: Three visited States have adopted a counter-terrorism strategy and employ adequate, specialized counter-terrorism institutional structures and measures that are managed by appropriate agencies. These three States have relatively advanced capacities to conduct investigations, cooperation, and information-exchange, including through interagency coordination. However, this cooperation could be further enhanced through the sharing of relevant data. With the exception of one State, which has not yet provided information, all States have regional cooperation measures in place. In view of the concerns expressed by United Nations human rights mechanisms regarding excessive use of force and ill-treatment of detainees in the context of counter-terrorism, there appears to be a need for many States to introduce more systematic oversight of law enforcement activities, including by the

judiciary. All 12 States have taken some steps to regulate the production, sale and transfer of arms and explosives, but legislation to control arms and explosives contains no clear provisions on arms brokering and brokers or transit of weapons. Seven States are not yet parties to the UNTOC Firearms Protocol. All States, except one visited State, have reported on their implementation of the United Nations PoA to Combat the Illicit Trade in Small Arms and Light Weapons (2001),[5] but States still need to reinforce their programmes and cooperation and implement the latest international best practices and arms control standards.

Border control: Seven States have introduced measures to detect forged travel documents; four have partially done so; and two have not provided the relevant information. Four States have measures in place to screen travellers on the basis of national/international information; one has taken partial measures; three have not yet taken measures; and four have not provided information. All States have partial measures in place for screening asylum-seekers, but it is not clear to what extent their procedures include access to the relevant lists of wanted persons. One State has measures in place to regulate illegal migration, while six have partially introduced such measures, and the remainder have not provided the relevant information. All States have partially implemented measures related to the SAFE Framework of Standards and have indicated their intention to implement the Framework in full. The ISPS Code has not yet been implemented fully and effectively throughout the subregion. Annex 17 and related security provisions of Annex 9 of the Convention on International Civil Aviation are partially implemented in all reporting States. (One State has not yet provided the relevant information.)

International cooperation: The level of ratification of the international counter-terrorism instruments is relatively high. One State is a party to 14 instruments, and the State with the lowest ratification rate is a party to five. Only four States have domestic provisions in place governing extradition and mutual legal assistance; five have partially introduced relevant measures; two have no legislative measures in place; and one has not provided the relevant information. In addition to the regional Convention of the League of Arab States, judicial and legal cooperation under the auspices of the Gulf Cooperation Council (GCC) enhances cooperation, albeit among the six GCC members only. United Nations mechanisms have expressed concern regarding inadequate legal and practical measures to guard against *refoulement* in several States.

General comment

States of this subregion have strengthened their counter-terrorism framework, in particular in the field of AML/CFT legislation. However, further attention is needed in order to ensure compliance with international obligations, including human rights obligations, both in drafting legislation and in implementation. Because of the advanced economic status of many States in the subregion and the presence of political instability in some areas, it will be necessary to enhance the regulation of the financial sector, remittances, cash couriers and the NPO sector in order to ensure they are not misused for terrorist financing. All States should ensure effective judicial oversight of law enforcement activities to guard against abuses and prevent impunity. In view of the continuing instability in some areas, there is a priority need to enhance border control, screen travellers, and prevent the smuggling of weapons.

[5] United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (2001), http://disarmament.un.org/cab/salw-nationalreports.html.

Priority recommendations for future action by the Committee
• **Promote training of prosecutors and judges, as well as any other relevant law enforcement agencies, in the effective implementation of recently enacted laws in the field of counter-terrorism and/or money-laundering, with due regard for international human rights obligations** • **Encourage States to take action to regulate the financial sector, the non-financial sector, remittances, illegal physical cross-border transportation of currency and other bearer instruments, and the non-profit sector in order to ensure that they are not abused for the purpose of terrorist financing** • **Encourage States to strengthen measures to protect their borders through, inter alia, the implementation of the relevant international best codes and practices.**

LATIN AMERICA

Central America and the Caribbean

(Antigua and Barbuda, Bahamas, Barbados, Belize, Costa Rica, Cuba, Dominica, Dominican Republic, El Salvador, Grenada, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, and Trinidad and Tobago)

The Committee has visited two States of this subregion.

Areas of assessment

Legislation: All 21 States of this subregion have at least partially incorporated the relevant terrorist offences into their counter-terrorism legislative framework. One State has established a comprehensive framework. (No State had done so at the time of the previous survey). The terrorist offences have been largely codified into domestic law, but most States need to review the relevant laws in order to ensure full compliance with their international obligations, including their human rights obligations. There is a need to enhance the capacity of prosecution and judiciary services in the subregion. Six States have adequate measures for the suppression of recruitment of members of terrorist groups; six have established adequate jurisdiction for the relevant offences in their domestic law; 10 have taken some steps in this regard (five as of the previous survey); one has not established jurisdiction; and there is insufficient information with respect to four States. Six States have criminalized the provision of safe haven to terrorists and their supporters; four have done so partially; one has not done so at all; and 10 States have not provided sufficient information in this regard. Ten States prohibit the use of their territories to commit or prepare terrorists acts against other States or their citizens; five have done so partially; one has not done so at all; and five have not provided sufficient information in this regard.

Counter-financing of terrorism: Eighteen of the subregion's 21 States are parties to the International Convention for the Suppression of the Financing of Terrorism, but only 12 criminalize terrorist financing in accordance with the Convention; three do so partially; and six have yet to do so at all. Anti-money-laundering laws are in place in all States, but most AML laws were originally drafted to combat drug trafficking (a major concern for the subregion), and terrorist financing is a predicate offence in only 11 States. Reporting obligations have been extended to terrorist financing in 12 States, and all States have at least partially adopted reporting and customer due diligence obligations. However, in most States such obligations apply only to certain Designated Non-Financial Businesses and Professions (DNFBPs), and practical supervision of these measures needs to be strengthened. Many States have either introduced, or may introduce amendments to existing AML/CFT laws, reflecting a willingness to improve compliance with their international obligations. All 21 States have established financial intelligence units, of which 14 are operational. One FIU has joined the Egmont Group since the previous survey. The capacity of FIUs in the subregion, including those that are members of the Egmont Group, should be enhanced through the provision of specialized training and data-processing equipment. Only one State has adequate measures in place to regulate financial transfers through informal remittance systems. Most States have insufficient capacity to freeze funds and assets linked to terrorism without delay, although some have made progress in this area. Eight States (compared with none, as of the previous survey) implement some measures to protect NPOs from terrorist financing. Only one State

has reviewed its NPO sector and conducted a risk assessment for terrorist financing. Substantial work is needed in this area. Declaration or disclosure systems are in place, fully or partially, in 15 States, but the adoption and implementation of such systems is very problematical in States that rely heavily on remittances from migrant workers.

Law enforcement: Eighteen States (three, as of the previous survey) have established national agencies, centres or units with an administrative or legislative mandate to conduct their work. Several States report having made efforts to improve interagency cooperation and coordination at the national level, but there is a general lack of information on the nature and impact of those efforts. Nine States report using special investigation and intelligence techniques. All States are members of INTERPOL, but their deployment of, and access to INTERPOL databases (including at the borders) are far from optimal. Governments are increasingly incorporating human rights principles into the activities of law enforcement agencies, but there are also reports of abuses and violations. The region is vulnerable to arms smuggling, and most States have shortfalls in their national legislation to regulate a variety of illegal activities regarding SALW, including brokering. Seven States have yet to report to the UN PoA on their national programmes to prevent and combat illicit arms trafficking, and six are not yet parties to the UNTOC Firearms Protocol.

Border control: Fourteen States have introduced mechanisms for establishing the true identity of a person prior to the issuance of an identity document, but there is a need for greater security and integrity in the issuance of identity and travel documents. The Advance Passenger Information System has been introduced in 10 Caribbean States. Machine-readable travel documents are issued in at least nine States. At least six States have implemented procedures and methods to screen travellers effectively against national and international databases; only three appear to have fully implemented measures to prevent the illegal cross-border movement of persons; and eight have partially implemented such measures. Fourteen States have expressed the intention to implement the WCO SAFE Framework. Customs integration and cooperation efforts (through SICA, in Central America, and CARICOM, for the Caribbean) are making progress. Customs controls on illegal trafficking in SALW, ammunition and explosives are practised in 10 States, but there is a need to tighten customs control and the training of officers. Drug and small arms trafficking continues to be a concern in the subregion. Sixteen States have undergone an ICAO audit. The legal framework to implement civil aviation standards and recommended practices is partially in place in 14 States, but 15 States have provided insufficient information on their implementation of civil aviation security standards. There is also a lack of information in the area of maritime security. Fourteen States have partially introduced a legal framework to implement maritime security instruments, codes and standards, but 18 States have provided insufficient information on the implementation of the ISPS Code. Seventeen States are parties to the 1951 Convention relating to the Status of Refugees, but 12 States have provided insufficient information on refugee laws and policies, and only eight (four, as of the previous survey) have developed measures to prevent the abuse of asylum procedures.

International cooperation: Thirteen States (compared with six, as of the previous survey) have adopted comprehensive domestic laws on mutual legal assistance and extradition. Twenty States are members of CICTE/OAS. The regional instruments on extradition and mutual assistance in criminal matters provide a useful framework for inter-State cooperation. Twelve States are parties to the Inter-American Convention against Terrorism, 13 to the Inter-American Convention on Mutual Assistance in Criminal Matters, but only four to the Inter-American Convention on Extradition. The seven members of the Central American Integration System are parties to the 1995 Framework Treaty on Democratic Security. Regional and bilateral mechanisms for law enforcement cooperation, such as early-warning mechanisms and intelligence cooperation, have been established. States of the subregion consider that the level of regional cooperation is improving. However, regional cooperation should be further strengthened because borders in the region are

weak, and the subregion is therefore vulnerable to transnational crime. The level of ratification of the international counter-terrorism instruments is relatively high. On average, States have ratified 11 of the 16 instruments, and 17 States (14, as of the previous survey) have ratified 10 or more of the instruments. However, only one State has ratified one of the most recent international instruments.

General comment

States in the subregion have improved their legal framework to combat terrorism. However, shortfalls remain, with respect, in particular, to the development of effective freezing mechanisms, the regulation and monitoring of alternative remittance systems and cash couriers, the monitoring of non-profit organizations, and the capacity of FIUs. Border control and law enforcement agencies continue to face challenges. The prevalence in the subregion of trafficking in arms and drugs reflects the weakness of border controls, and there is increasing concern that this may be potentially abused by terrorist networks. Combating transnational crime is considered to be among the top priorities for the subregion. The lack of feedback from States in many areas of law enforcement and border control has hampered assessment of whether measures to combat terrorism have been put in place and are being effectively implemented. States are urged to report on policies and operational measures being developed and utilized in those areas, including on regional mechanisms for law enforcement cooperation such as early-warning and intelligence cooperation.

Priority recommendations for future action by the Committee

- **Encourage States to take adequate measures to protect their non-profit sectors and alternative remittance systems from abuse for the purposes of terrorist financing, to improve their capacity and effectiveness to freeze funds and assets linked to terrorism, and to strengthen their FIUs**

- **Encourage States to enhance border security at points of entry in order to prevent the illegal cross-border movement of persons, cargo, drugs and arms/explosives, as well as the physical cross-border transportation of currency and other bearer instruments**

- **Encourage States to continue training law enforcement personnel with a view to enhancing counter-terrorism capacity and strengthening institutions and the rule of law.**

South America

(Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Guyana, Paraguay, Peru, Surinam, Uruguay and Venezuela (Bolivarian Republic of))

The Committee has visited no State of this subregion.

Areas of assessment

Legislation: Five States in the subregion have established a comprehensive counter-terrorism legal framework. Counter-terrorism legislation has improved in at least four other States. In the case of two States, shortfalls have been identified in their codification of terrorist offences in domestic law. Almost all States have made progress in enhancing the capacity of their prosecution and judiciary services. International and regional organizations play a very active role in providing training and programmes in areas such as judicial cooperation, combating criminality and promoting human rights. Nine States have taken measures to suppress recruitment of members of terrorist groups.

Counter-financing of terrorism: All States except one are parties to the International Convention for the Suppression of the Financing of Terrorism. All have adopted anti-money-laundering legislation and seven have included terrorism financing as a predicate offence. At the time of the previous survey, only two States had adopted legislation to criminalize terrorist financing, and only four States had operational FIUs. Eleven States have now established an FIU, and at least six FIUs are operational. Seven States have extended the reporting obligation to include terrorist financing. The capacity to freeze without delay funds and assets linked to terrorism has improved in some States, but is not yet fully implemented in all cases. Although almost all States have legislation in place to regulate charitable organizations, legal provisions designed to prevent terrorism financing through NPOs still need to be enacted and implemented effectively in at least 10 States (12 in the previous survey). Only one State has reviewed its NPO sector or conducted a risk assessment for terrorist financing. Although many States have improved measures to address cash couriers, only four seem to have established effective control. Seven States have established a declaration or disclosure system for cross-border movement of cash. Monitoring of alternative remittance systems continues to need improvement in most States.

Law enforcement: Ten States have established national agencies or offices to deal with counter-terrorism matters. (Two States have not provided the relevant information.) Interagency coordination is fairly developed in seven States (compared with six in the previous survey). States have developed joint strategies and relationships among their various counter-terrorism agencies, either fully or partially. Four States have also enacted legislation giving their law enforcement authorities special investigative powers. Almost all States use INTERPOL data, but in some cases the degree of efficiency is not clear. Regional and international cooperation in law enforcement work has improved in seven States. Cooperation, including through early-warning and intelligence, seems to be effective. Four states prohibit brokering activities or impose brokering controls, but the six remaining have yet to make provision for these measures in their legislation. Five States are not yet a party to the UNTOC Firearms Protocol, but almost all have introduced OAS legislation criminalizing illicit manufacturing, possession and trafficking in SALW, ammunition and explosives. In nine States, the relevant legislation appears comprehensive, but the enforcement programme to control SALW, ammunition and explosives is vulnerable in many States, owing to the existence of large stocks of illegal

SALW employed in past and present conflicts. This makes the control and elimination of arms trafficking a challenge for law enforcement authorities. Most Governments appear to be strongly committed to ensuring that law enforcement agencies respect human rights, although in some cases serious concerns have been raised about violations by security forces.

Border control: All States have established procedures for establishing the true identity of a person prior to the issuance of identity documents. Seven States (five in the previous survey) have implemented effective screening procedures for travellers. Cooperation across regional borders has improved substantially, including sharing of information and customs cooperation. Around half of States in the subregion have introduced legislation on illegal migration and implemented legal measures to prevent abuse of the asylum system. However, the effectiveness of controls could be significantly improved, particularly in light of the subregion's porous borders. Implementation of customs standards is nearly complete, as only six States implement the WCO SAFE Framework only partially. Eleven States have undergone an ICAO USAP audit. There has been a general improvement in the implementation of civil aviation standards, with six States having implemented most standards. Implementation of maritime security codes and standards has also improved in general, although only two States comply with most requirements. Despite the progress achieved, management of border control and customs still poses a challenge.

International cooperation: The level of ratification of the international counter-terrorism instruments is relatively high. Two States have ratified 13 instruments, and seven have ratified 12. However, no State has ratified the three most recent counter-terrorism instruments. Eight States have introduced adequate provisions on extradition and mutual legal assistance, and the remainder are making progress in this regard. International cooperation has improved, including though the establishment of regional cooperation mechanisms. All States are members of the OAS, which provides a regional setting for cooperation at the policy and operational levels. Only two States have yet to ratify the Inter-American Convention against Terrorism. Eleven States have ratified the Inter-American Convention on Mutual Assistance in Criminal Matters, and the remaining State is a signatory. Only two States have ratified the Inter-American Convention on Extradition, while four other States are signatories. There appears, however, to be a lack of coordination among some actors involved in regional cooperation.

General comment

This subregion has a difficult recent history, and several States continue to experience problems with terrorism and other violent crimes. However, most States seem to be making progress in most areas of counter-terrorism, the ratification of the international counter-terrorism instruments, the adoption of modern counter-terrorism legislation, and the strengthening of financial regulations and institutions. (It should be noted that the Committee has not yet been able to visit any Member State of the region to assess the situation first hand.) Progress has also been made in establishing mechanisms for cooperation at all levels and subregional cooperation, including in the Tri-Border Area (Argentina, Brazil and Paraguay). However, progress is still limited by weak institutions, which undermine the effectiveness of implementation. Transnational organized crime and trafficking in drugs and arms are continuing concerns, which will require the introduction of adequate border and maritime controls. The effectiveness of the supervision of NPOs and alternative remittance systems is unclear. Most States have taken an active approach to ensuring that counter-terrorism measures take due account of human rights obligations. However, there is some concern about special powers granted to security forces and certain alleged abuses in this regard.

Priority recommendations for future action by the Committee
• **Strengthen the capacity of law enforcement agencies to detect the illegal movement of cargo, cash and other monetary instruments and effectively implement aviation and maritime security standards and practices** • **Promote training of, and cooperation among judicial and law enforcement agencies engaged in combating terrorism, its financing and recruitment** • **Encourage States to strengthen counter-financing of terrorism regimes, with emphasis on strengthening the monitoring of NPOs and alternative remittance systems.**

EUROPE

South-Eastern Europe

(Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the former Yugoslav Republic of Macedonia, Montenegro, Romania, Serbia and Slovenia)

The Committee has visited three States of this subregion.

Areas of assessment

Legislation: Counter-terrorism legislation has improved in the subregion, with five States (compared with four in the previous survey) having established a comprehensive legal framework. Substantial shortfalls have been identified with respect to four States, concerning their codification of the terrorist offences in domestic law. Seven States have also enacted legislation giving their law enforcement authorities special investigative powers. All States in the region have made progress in enhancing the capacity of their prosecution and judiciary, and international and regional organizations play a very active role in providing training and programmes in areas such as judicial cooperation, fighting criminality, and protecting human rights. However, in all visited States the capacity of the prosecution and judiciary in areas such as human resources and technical equipment needs to be enhanced. In at least six States, more training in handling counter-terrorism cases needs to be provided in the areas of international cooperation; sophisticated methods of investigation (including, as appropriate, the use of special investigative techniques); and ensuring effective human rights safeguards. All States except two criminalize recruitment. (This compares with only four States at the time of the previous survey.) However, only two have adopted practical measures and a national strategy to suppress recruitment by terrorist groups. In view of the vulnerability of the subregion to recruitment by terrorist groups, a greater effort should be made to build the capacity of prosecution and law enforcement services in this area, including by ensuring that the implementation and application of these measures ensure full respect for the rights of individuals.

Counter-financing of terrorism: All States in the subregion are parties to the International Convention for the Suppression of the Financing of Terrorism. All have adopted new AML/CFT laws in recent years, and progress is reflected in the fact that three States have adopted such measures since the previous survey. These laws criminalize money-laundering and financing of terrorism to a reasonable degree, in accordance with international standards. All States have included financing of terrorism as a predicate offence and extended the reporting obligation to financing of terrorism. All States have introduced modern AML/CFT laws and operational FIUs. (This compares with six as of the previous survey). However, the visits conducted by the Committee to the subregion and the evaluations conducted by other international and regional organizations have demonstrated that the capacity of some FIUs needs to be enhanced. Although all States in the subregion have legislation in place to regulate charitable organizations, legal provisions designed to prevent terrorism financing through NPOs have yet to be enacted and implemented effectively. No State has reviewed its NPO sector or conducted a risk assessment for terrorist financing. In view of the active role played by charitable organizations in this subregion, tackling this issue should be a priority.

Most States in the subregion face challenges in implementing measures to control cash couriers. Whereas most States have extended reporting and customer due diligence obligations, as appropriate, to relevant businesses and professions, they appear to be encountering challenges in their efforts to implement these measures and maintain effective relations with the private sector on AML/CFT compliance as a whole.

Law enforcement: Five States have established a national agency or centre responsible for managing counter-terrorism measures with a legislative mandate to guide it in its work. Six States have developed, whether fully or partially, the strategies, institutions and interagency relationships necessary to combat terrorism. More information is needed in order to assess mechanisms introduced to oversee the work of law enforcement agencies, and the level of interagency cooperation and coordination needs to be improved in all visited States. INTERPOL data is used by all States in the subregion, but one visited State does not deploy such data at the border. Regional mechanisms for law enforcement cooperation, including early-warning and intelligence cooperation, have been established over recent years, substantially improving the level of regional cooperation. However, on the evidence of the visits conducted to the subregion, regional cooperation in counter-terrorism matters requires further strengthening. All States in the subregion have introduced rigorous legislation regulating the production, sale and transfer of arms and explosives. However, there remain large stocks of illegal SALW from past conflicts, and the subregion serves as a transit route for Europe. As a result, the subregion is vulnerable to arms trafficking, and suppressing this activity is a difficult challenge for law enforcement authorities.

Border control: All States in the subregion have set up procedures for establishing the true identity of a person prior to the issuance of identity documents. At least four States have issued new machine-readable passports with enhanced security features over the past three years. All States have made substantial progress in the area of border control as part of their European integration. Two States report having implemented integrated border-management systems over the past two years. Cooperation in regional border management has improved substantially, including through the establishment of joint patrols, sharing of information, and regional mechanisms for border control and customs cooperation. Despite this progress, the subregion still faces certain challenges in this respect, particularly as some internal borders are "green borders", and the quality of border management across the region varies. In three visited States the border police did not possess the necessary equipment to detect forged travel document; nor did they have border surveillance mechanisms in place. In those States, formal border crossings were often found to be unconnected to central databases. Overall, despite the progress achieved, management of border control and customs still poses a challenge. Much progress has been made, over recent years in respect of efforts to prevent terrorists from abusing refugee and the asylum systems. Eight States (including three during the past two years) have adopted legislation aimed at bring asylum procedures into line with international standards. However, at the practical level, the handling of refugees and asylum in States still recovering from past conflicts is still a challenge for law enforcement and immigration authorities.

International cooperation: The level of ratification of the international counter-terrorism instruments is relatively high, except that almost no State has ratified the most recent instruments. All States have introduced adequate provisions on mutual legal assistance, extradition and exchange of information. The level of cooperation with European States at all levels (judicial, prosecutorial and law enforcement) is high. International cooperation within the subregion has improved substantially, including through the establishment of regional mechanisms for cooperation. However, the level of regional cooperation remains relatively low, largely because of political tensions and some overlapping and lack of coordination among the various actors involve, and needs to be further strengthened. States in this subregion would benefit from training in maintaining human rights safeguards in international transfers.

General comment

Despite the difficult recent history of the subregion, most States are making good progress in most areas of counter-terrorism, including ratification of the international counter-terrorism instruments, the adoption of modern counter-terrorism legislation, and the strengthening of financial regulations and institutions. Much progress has also been made towards establishing mechanisms for judicial and law enforcement cooperation. However, these developments must be incorporated at the national and regional levels before the fruits of this progress can be seen on the ground.

Priority recommendations for future action by the Committee

- **Encourage States to build the capacity of their prosecutorial and judicial agencies in order to deal effectively with serious offences, including acts of terrorism, and provide training to those agencies**
- **Encourage States to build the capacity of their AML/CFT regimes, with a particular focus on building the capacity of FIUs and on regulation of charitable organizations**
- **Encourage States to strengthen border security and effectively manage and cooperate in border control and customs activities.**

Eastern Europe

(Belarus, Czech Republic, Estonia, Hungary, Poland, Latvia, Lithuania, Moldova, Russian Federation, Slovakia and Ukraine)

The Committee has visited no State of this subregion.

Areas of assessment

Legislation: All States of this subregion have adopted enabling legislation giving them jurisdiction over offences committed by their nationals abroad or by foreigners in their territories. Although 10 States prohibit the use of their territories to commit or prepare a terrorist act, there is insufficient practical information with respect to four of these States. Nine States have introduced provisions for the suppression of terrorist recruitment. Nine States have introduced provisions regarding the principle of "extradite or prosecute". International human rights mechanisms have raised concerns over some special provisions that are applicable only in the context of counter-terrorism.

Counter-financing of terrorism: All States in this subregion are parties to the Convention for the Suppression of the Financing of Terrorism, have adopted AML/CFT laws, and have operational FIUs. Criminalization of financing of terrorism is an area of relative weakness in this subregion, as only five States have introduced the requisite legislation and three have done so only partially. Although all States have a declaration or disclosure system in place for cash couriers, the relevant practical information is

insufficient regarding at least four States. Similarly, only nine States impose a reporting obligation on financial institutions for terrorist financing and money-laundering. The regulation of non-profit organizations (NPO) and money transfers, and the enforcement of customer due diligence requirements and reporting obligations of financial institutions and other intermediaries continue to remain areas of concern. Six States regulate NPOs, ad two do so partially. Only five regulate informal money and value transfers, and two do so only partially.

Law enforcement: All States have developed strategies and set up institutional structures to combat terrorism. However, practical information on the functioning of those structures is insufficient in respect of six States. At least six States have established dedicated counter-terrorism centres to handle a range of counter-terrorism issues. The States of this subregion have also established strong regional arrangements for cooperation. Eight States are part of the Schengen Information System (SIS); at least six cooperate through Europol; and six cooperate through INTERPOL. Measures for the regulation of arms trafficking are fully in place in only five States, and partial measures have been introduced in a further two States. There is insufficient available information to evaluate the other four States in this regard.

Border control: All States in this subregion have border control measures in place. However, the effectiveness of these measures needs to be observed on the ground. All States satisfy MRTD requirements, and have controls in place for the issuance of travel documents and legislation regarding asylum. However, practical information regarding efforts to penalize illegal migration is insufficient in respect of at least six of these States. Similarly, most States in this subregion do not have the required aviation, maritime and cargo security measures in place. Only five States have full measures in place, three have partial measures in place, and the remaining three have not provided sufficient information.

International cooperation: States in this subregion have a high rate of ratification of the international counter-terrorism instruments. All have ratified 13 or more instruments. Nine States have arrangements for mutual legal assistance in place, but in at least three cases the practical information is insufficient. All have procedures in place for the exchange of information. The United Nations human rights mechanisms have identified serious deficiencies in several States with respect to ensuring strict respect for the principle of *non-refoulement*.

General comment

As most States have the necessary laws on counter-terrorism in place and are parties to a high number of instruments, the challenge in this subregion continues to be the implementation of laws and practices. Compared with last year, the number of ratifications of the international instruments has increased in this subregion, with each State being a party to at least 13 instruments. Overall, this subregion has developed the strategies, processes, and measures necessary to exercise an adequate level of control in the areas of border security, immigration and customs controls. Areas of concern remain criminalization of financing of terrorism, customer due diligence and reporting requirements for non-financial institutions, regulation of non-profit organizations and informal money transfers. The region continues to remain at risk of smuggling of arms, explosives, goods and people, as well as the illicit physical cross-border transportation of currency and other bearer instruments. There are also significant human rights concerns in some States, including with respect to international cooperation.

Priority recommendations for future action by the Committee

- **Encourage States to focus on suppression of terrorist financing, with respect in particular to the regulation of the NPO sector and informal money transfers**
- **Encourage States to build the capacity of their prosecutorial and judicial agencies in order to deal effectively with serious offences, including acts of terrorism**
- **Promote continued modernization of technical systems in order to comply with improved standards for customs security, travel document security and the prevention of arms/explosives trafficking, as well as the monitoring of cross-border transportation of currency and other bearer instruments.**

Western Europe and Other States

(Andorra, Australia, Austria, Belgium, Canada, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Israel, Italy, Liechtenstein, Luxembourg, Malta, Monaco, Netherlands, New Zealand, Norway, Portugal, San Marino, Spain, Sweden, Switzerland, Turkey, United Kingdom and United States)

The Committee has visited eight States of this subregion.

Areas of assessment

Legislation: With the exception of two States of this subregion, most have established comprehensive counter-terrorism legislative frameworks. No major shortfalls have been identified with respect to counter-terrorism legislation. However, international human rights mechanisms have raised concerns over the use of special counter-terrorism measures in several States. All 30 States have criminalized the financing of terrorism, and all have either enacted full legislation to criminalize recruitment for terrorism or have taken steps to do so. Twenty-five States have comprehensive legislation in place to facilitate extradition and mutual legal assistance, and the remaining five have some legislation in place. All States have made progress in enhancing the capacity of their prosecution and judiciary. However, only 20 have adopted practical measures and a national strategy to suppress recruitment by terrorist groups. In view of the problems faced by many States in this group with respect to recruitment by terrorist groups, more efforts should be made to build the capacity of prosecution and law enforcement services in this area, including by ensuring that implementation fully respects human rights.

Counter-financing of terrorism: All 30 States are parties to the International Convention for the Suppression of the Financing of Terrorism, and all have adopted AML/CFT laws that criminalize money-laundering and the financing of terrorism. Those States that are members of the European Union also implement European Union regulations on counter-terrorism and have adopted national legislation that brings them into line with the relevant European Union Directives. All States include financing of terrorism as a predicate offence to money-laundering and have extended reporting obligations on financial and other institutions to include financing of terrorism. Most States have imposed reporting and customer due diligence obligations on relevant non-financial businesses and professions. All States in this group also have operational FIUs, although the capacity of some could be improved. Although the States of this

subregion function at a high level with regard to counter-financing of terrorism in general, many need to devote far greater attention to developing effective measures to freeze funds and assets linked to terrorism. Nearly all States have procedures in place for appealing against preventive measures, although the effectiveness of those procedures could be improved in some cases. Additionally, 14 States need to improve their legislation and capabilities to prevent terrorist financing through charitable organizations, and 13 need to improve their regulation of alternative remittance systems. At least six States in this group need to improve their disclosure and/or declaration systems for identifying cash couriers.

Law enforcement: Almost every State has introduced effective mechanisms to enable law enforcement agencies to tackle terrorism. All States have established a national agency or centre to manage counter-terrorism measures, with a legislative mandate to guide it in its work. All States has developed, whether fully or partially, the strategies, institutions and interagency relationships necessary to combat terrorism. Intelligence and security services in most States are well equipped to investigate terrorist activity and to coordinate with relevant law enforcement agencies. All States use INTERPOL data. Regional mechanisms for law enforcement cooperation, including early-warning and intelligence cooperation, have been established and serve to facilitate regional cooperation. International human rights mechanisms have raised a number of concerns about violations allegedly committed by law enforcement and intelligence bodies in the course of investigation and interrogation. All States have introduced rigorous legislation regulating the production, sale and transfer of arms and explosives. However, eight States need to improve their practical measures for identifying and suppressing the trafficking of arms and weapons.

Border control: All States are in compliance with MRTD requirements, have controls in place for the issuance of travel documents and legislation regarding asylum. Border control is conducted at a high level, and regional border management generally functions well through the use of practices such as the use of joint patrols, sharing of information and regional mechanisms for border control and customs cooperation. The Schengen Agreement covers 17 States in this subregion and provides for open borders between these States. Two Schengen members no longer have external borders to guard. While this greatly facilitates integration, improving conditions for trade and the free movement of legitimate persons, it could also facilitate the movement of illicit goods and people throughout a broad territory. Schengen members have, however, introduced a range of measures to address this challenge. These include the Schengen Information System (SIS), an international computerized database that allows States to store and share information on aliens, asylum seekers, criminals, and those under surveillance by state security agencies; and an opt-out mechanism that allows members temporarily to re-establish border controls for national security reasons. All States have taken steps to ensure cargo security, maritime security and aviation security to a high degree. Most States continually update their security systems to reflect advancing international standards. Much progress has been made, over recent years, in efforts to prevent the abuse of refugee and asylum systems by terrorists. Twenty-one States have adopted legislation aimed at bringing asylum procedures into line with international standards. Concerns have been raised by United Nations mechanisms, however, regarding the failure by some States to strictly observe the principle of *non-refoulement*.

International cooperation: The level of ratification of the international counter-terrorism instruments is relatively high, and two States in this group have ratified all 16 instruments. Most States have in place a robust legal framework to support mutual legal assistance and extradition requests, particularly within the framework of the European Union. All have procedures in place for exchange of information, including via their financial intelligence units. The European Union member States have developed sophisticated mechanisms for cooperation among themselves and with third States, including EUROJUST and Europol.

General comment
This subregion is generally at an advanced stage in the implementation of resolution 1373 (2001), with the exception of only a few States. The subregion has an impressive record of international cooperation, with one of the highest rates of ratification of the international counter-terrorism instruments. Overall, this subregion has developed the strategies, processes, and measures necessary to exercise an adequate level of control in the areas of border security, immigration and customs controls. However, vigilance is required to protect against organized crime, smuggling of arms, explosives, goods and people, and the illicit physical cross-border transportation of currency and other bearer instruments, all of which may be used to fund terrorism. Although every State has adopted AML/CFT legislation, in light of the high economic activity and liberal financial systems of this subregion, States remain vulnerable to organized crime and money-laundering. Several States are vulnerable in respect of their counter-financing of terrorism regulations, especially in the area of charitable organizations/NPOs and alternative remittance systems. International human rights mechanisms continue to express concerns on a range of issues relevant to implementation of resolution 1373 (2001).
Priority recommendations for future action by the Committee
• **Encourage States to build the capacity of their AML/CFT regimes, with a particular focus on the regulation of charitable organizations, improved monitoring of alternative remittance systems, and control of cash couriers** • **Encourage States to adopt practical measures and national strategies to suppress recruitment by terrorist groups, with due regard for international human rights obligations** • **With the aim of furthering international cooperation, encourage States to share best practices and technical expertise with other States, as widely as possible.**

Part II
Assessment by thematic area

Legislation

In order to implement Security Council resolution 1373 (2001) effectively, it is essential to establish a comprehensive and coherent counter-terrorism legal framework. Although many States have introduced extensive criminal legislation covering various criminal acts, such legislation often lacks the requisite specificity, comprehensiveness and complementarity.

The intent of the resolution is that States, by enacting specific counter-terrorism legislation, should no longer need to resort to vague legal provisions, ad hoc methods, or customized interpretations in order to prosecute terrorist acts. Instead, States should establish a clear, complete and consistent legal framework that specifies terrorist acts as serious criminal offences, penalizes such acts according to their seriousness, and helps the courts bring terrorists to justice. This framework should in turn provide the basis for the development of a domestic counter-terrorism strategy that is rooted in a legal approach, ensures due process of law in the prosecution of terrorists and appropriately protects human rights, while combating terrorism as effectively as possible.

Although most States have taken significant steps towards the development of such a legal framework, progress has been more limited in certain regions. Most States in the Western Europe and other States, Eastern Europe, and Central Asia and the Caucasus regions have introduced comprehensive counter-terrorism legislation. More than half of the States in South Eastern Europe and almost half of the States in South America have comprehensive counter-terrorism legislation. In Africa, Western Asia, Southeast Asia, Central America and the Caribbean, many States do not have comprehensive counter-terrorism legislation in place, although most do have some elements in place. In the Western Europe and other States, Eastern Europe, South Eastern Europe and Central Asia and the Caucasus regions, most States have fully criminalized the offences in the international instruments in their national legislation. However, the degree to which the offences have been codified varies widely among the States of the remaining regions and continues to require attention. There have been improvements in the criminalization of terrorist recruitment, although information on the strategies and resources put in place to suppress recruitment by terrorist groups was generally lacking. Areas that require attention include legislative measures on criminalizing safe havens in certain regions.

In their efforts to develop a comprehensive legal framework and codify the international offences, States should take steps to enhance the capacity and capability of the prosecution and the judiciary. Although some States have made substantial progress in establishing dedicated counter-terrorism prosecution services and, where appropriate, judicial services, many continue to face challenges in their efforts to staff those services with skilled prosecutors and judges and to provide them with the necessary technical resources and training. Most visited States continue to experience difficulties in their efforts to establish counter-terrorism units; provide training in the investigation and prosecution of counter-terrorism cases, effective investigative methods and criminal procedures related to counter-terrorism cases; engage in international cooperation; and guarantee human rights safeguards.

Priority recommendations for future action by the Committee

- **Promote the adoption of national counter-terrorism legal frameworks that are both coherent and comprehensive (i.e. frameworks that include all the relevant terrorist offences, define the scope of terrorist acts, specify lawful investigative methods, guide criminal procedures in accordance with respect for human rights, designate the jurisdiction of the courts, prescribe set penalties, and streamline sentencing)**

- **Encourage States to provide the relevant officials with the training necessary to implement the counter-terrorism legal framework (e.g. in areas such as investigation, prosecution, sentencing and international cooperation)**

- **Facilitate capacity-building of prosecution and judiciary services and enhance their ability to deal with counter-terrorism cases.**

Counter-financing of terrorism

Counter-financing of terrorism (CFT) lies at the heart of Security Council resolution 1373 (2001), which requires States to take a number of measures to prevent and suppress terrorist financing. In implementing the resolution, States have over the years introduced a number of relevant legal, institutional and operational measures. Although there has been some progress in certain areas since the previous survey (notably, in the enactment of new AML/CFT laws, the freezing of funds and the establishment and/or operational launching of financial intelligence units) a number of challenges remain in all regions.

The obligations of States in relation to the criminalization of terrorist financing are set forth in resolution 1373 (2001) and in the International Convention on the Suppression of the Financing of Terrorism. Those obligations form a comprehensive regime, despite the absence of a universally agreed definition of terrorism. Both the resolution and the Convention provide that in order for the terrorist financing offence to exist, the funds intended to finance the terrorist act need not be the proceeds of crime and that the terrorist act that the funds were intended to finance does not actually need to have taken place or even to have been attempted. The Convention also allows for the prosecution of the financing of all terrorist acts set forth in the international counter-terrorism instruments. However, although most States are parties to the Convention, a significant number have either not yet criminalized the terrorist financing offence or have introduced a terrorist financing offence that does not reflect the offences set forth in the Convention or the resolution. The shortfalls identified in this regard include the following: the financing of terrorism is criminalized as an accessory offence or States rely on ancillary offences, such as aiding and abetting; the definition includes the provision and not the collection of funds; the offence is not included as a predicate offence to money-laundering; the jurisdiction of the courts does not generally extend to acts committed outside the State's territory by foreign nationals currently within the State, except where the offence aims at undermining State security or counterfeiting the legal tender. Moreover, the degree to which the investigation and prosecution of terrorist financing offences functions as a modus operandi varies considerably, and most States lack sufficient expertise and experience in this area.

Paragraph 1 (c) of resolution 1373 (2001) requires that States freeze without delay the funds and assets of persons and entities associated with the commission or attempted commission of terrorist acts. In order to achieve this, States must take immediate action to identify the relevant individuals and entities, as well as all their associated funds and assets, and to freeze those funds and assets. Several States, including some visited by the Committee in 2009, have put in place impressive mechanisms to implement effectively this challenging provision of the resolution within the framework of respect for due process and to use those mechanisms to freeze terrorist funds and assets. They have also reported to the Committee on the value of freezing funds and assets as a tool in preventing acts of terrorism. That some States have implemented an effective asset-freezing regime and have recognized its value in the fight against terrorism should serve to encourage other States (which remain in the majority) that have yet to make effective provision for this part of the resolution.

Another area where many States face considerable challenges is that of customer due diligence (CDD). As the present survey indicates, most States have established in their legislation customer due diligence obligations and reporting mechanisms which oblige financial institutions and certain professionals to identify their customers and report suspicious activities to the authorities. Establishing these obligations in law is just one element of preventing the use of the financial system for the purpose of terrorist financing. In order to do so effectively, States must possess a robust customer due diligence programme which is implemented by all relevant agencies and provides effective guidance to the private sector. The implementation of this programme should be monitored and, if needed, enforced by the authorities. Although best practices in this field do exist, effective implementation is a challenge, not just for low-capacity States, but also for developed States. For low-capacity States, the main challenge lies in establishing such programmes. Most may need assistance in order to do so effectively. Such assistance needs to involve the private sector. In the case of developed States, the challenge is to identify and monitor - perhaps more so than in the case of less-developed States - complex legal entities, multinational or foreign customers, non face-to-face customers, correspondent banking relationships, and innovative and constantly developing financial instruments. These States need to be able to provide the private sector with effective and expeditious responses in order to increase the competitiveness of their institutions. All State also need to develop a risk-based approach to different kinds of financial activities, and this in itself represents a further challenge to the implementation of effective customer due diligence programmes.

Many informal money or value transfer systems - such as hawala, hundi and fei-chien - operate across borders and outside the domestic legal framework and many overseas workers rely on such services for low-cost and rapid remittance of funds to their families. One key problem is that States suspect that such systems may be used for terrorist financing, yet do not have a clear understanding of the scope of such operations. It is therefore important to increase transparency in this sector and to implement procedures to reduce this risk in accordance with international standards and best practices. Governments' responses, however, should be flexible, effective and proportionate to the risk of abuse for the purposes of terrorist financing. In many parts of the world, such systems serve a useful purpose for those who cannot afford the services of the formal financial system. They are also useful for cash-based economies in which the banking sector is not highly developed.

The monitoring of cross-border movement of cash is another measure to prevent terrorist financing. Indeed, the use of cash couriers is now recognized as a major avenue for the movement of terrorist funds. Although most States have adopted legal measures, including a declaration or disclosure system, to report amounts of currency in excess of certain thresholds at borders not all have implemented the declaration or disclosure system at borders, and only a few have put in place effective procedures and methodologies to detect illegal cross-border movements of cash.

Priority recommendations for future action by the Committee

- **Encourage States to criminalize the financing of terrorism in accordance with resolution 1373 (2001) and the Convention**
- **Encourage steps to improve the capacity to freeze without delay funds and assets linked to terrorism and the sharing of expertise in that regard**
- **Encourage States to introduce mechanisms to reduce the risk that terrorist financing will be carried out through informal money and value transfer systems.**

Border control

The implementation of border control measures is essential to the practical application of a State's counter-terrorism strategy. Border control measures cover a wide range of practices, including controls on the cross-border movement of people, goods and cargo, and small arms and light weapons; and aviation and maritime security. Controlling the mobility of people across borders requires ensuring the integrity and validity of identification and travel documents; screening travellers against a variety of references - including national and international counter-terrorism and criminal databases; and implementing proper screening procedures for refugees and asylum-seekers. Controlling the cross-border movement of goods, cargo and SALW requires the screening and inspection of cargo and travellers' baggage. Aviation and maritime security requires the implementation of security practices to ensure the physical security of airports, ships engaged in international voyages, and the seaports serving such ships. States are guided by a wide variety of standards and norms developed by international specialized organizations. Proper implementation and effective enforcement of those standards and norms significantly enhance a State's capacity to successfully combat terrorism.

The extent to which border control measures are effectively and comprehensively implemented varies from region to region, owing to factors such as the nature of the border, the accessibility and length of the border, and institutional and technological capacities. Other factors, such as armed conflict, disputed borders, and uncontrolled territory can severely undermine States' border control efforts. The greatest impediment to the assessment of the effectiveness of States' border control measures is the lack of detailed information provided by many States. Although most States have reported on their border control laws and institutions, many have yet to submit sufficient information to the Committee regarding their practical implementation of border control measures.

Nonetheless, the assessment of the information provided indicates that many States are advanced in their implementation of effective border controls and that most States have taken at least some steps to implement controls in many relevant areas. Many States have reported the introduction of measures to enhance integrity in the issuance of identity and travel documents, and most have some capacity to detect fraudulent identity papers. Although many States do not yet have the capacity to comprehensively screen all travellers, many screen travellers against national and international criminal databases and have implemented practices to verify the identity of persons applying for visas. Twenty-one States do not yet

issue machine-readable passports (MRPs). However, nine of these States are working towards meeting the ICAO April 2010 deadline for MRTD compliance. Of all the States that issue machine-readable passports (MRPs), nine issue MRPs that are not compliant with ICAO standards. The effectiveness of measures developed to control the security and integrity of identity papers and travel documents is difficult to measure, but it was observed to be insufficient in many visited States.

Many States have developed and implemented policies and mechanisms to enhance the security of the international trade supply chain through the application of international customs standards. A total of 157 States have indicated their intention to implement the WCO SAFE Framework of Standards and many have achieved good progress in this regard. Most States have legislation in place to implement the aviation security standards and practices specified in the relevant annexes to the "Chicago Convention". Most States have also been audited through the ICAO Universal Security Audit Programme and continue to take the necessary corrective action. ICAO is working with States to ensure their full compliance with aviation security standards. Most States with maritime ports have implemented the maritime security codes and standards required by the relevant IMO instruments. However, the information provided on practical implementation of these instruments and observations made during the Committee's visits to port facilities indicate that there remain security gaps and shortfalls which should be quickly addressed. Overall, the absence of detailed information on the implementation of cargo, aviation, and maritime security measures makes it difficult to provide a clear picture of how States are doing in these respects.

Although most States have legislation and systems in place to deal with asylum-seekers and refugees in accordance with paragraphs 3 (f) and (g) of the resolution, relatively little information has been provided on the practical measures taken to prevent terrorists from abusing asylum procedures and refugee status. Similarly, most States have introduced laws to criminalize illegal migration and human smuggling, but less than half have reported on their capacity to prevent these acts from taking place and pursue offenders or their practices in this regard.

Priority recommendations for future action by the Committee

- **Continue to encourage the adoption and full implementation of the international instruments and standards on customs, arms controls, aviation security and maritime security**

- **Facilitate the provision of technical assistance to States with shortfalls in the implementation of border controls, including by encouraging the adoption of ICAO security standards for travel documents, procurement of the necessary IT and communications equipment, and training**

- **Promote broader information-sharing among concerned law enforcement agencies, as well as the extension of national and international counter-terrorism and criminal databases to the main entry/exit border posts.**

Law enforcement

The effective practical implementation of counter-terrorism policies and procedures requires a well-defined strategy, bolstered by a strong, well-coordinated domestic security and law enforcement apparatus that can detect, prevent and investigate terrorist activities. States are therefore encouraged to ensure that counter-terrorism measures are managed and conducted by appropriate law enforcement agencies and to establish a coordinated national legislative mandate to guide their work. Further, States are encouraged to create dedicated counter-terrorism units and specialized tools, such as centralized databases and forensics capabilities, in order to capitalize on the expert capacity of their law enforcement institutions. Oversight of law enforcement activities is also necessary, in order to ensure that investigations and operations are conducted with due respect for human rights.

Coordination and cooperation among law enforcement agencies is essential at all levels, both domestically and across regional and international lines. The timely exchange of operational counter-terrorism information also plays a crucial role in States' ability to successfully combat and prevent terrorism. States are encouraged to establish early-warning systems, both within their national systems and with other States and regional and international bodies. States are also encouraged to enter into mutual legal assistance arrangements aimed at facilitating and enabling regional and international cooperation and exchange of information.

Law enforcement agencies and personnel involved in combating terrorism must have access to counter-terrorism-specific resources and information, including relevant international databases, as well as information on terrorist activities, movements, and use of technologies and weapons.

States need to ensure not only that their domestic legislation provides their law enforcement agencies with the necessary operational manoeuvrability, but also that there is adequate funding, training and judicial oversight in place to enable those agencies to enhance their professional capabilities. Law enforcement agencies should work together with prosecutors and courts, within a framework of accountability and respect for the rule of law, in order to gain public trust and ensure the integrity of counter-terrorism efforts, from the prevention stage through to prosecution and punishment of persons who have committed terrorist acts.

Most States report certain positive developments in the implementation of such measures; many report significant progress; and some have not yet reported to the Committee on their efforts in this regard. Most States have developed strategies to combat terrorism and have taken steps to ensure that counter-terrorism measures are managed by relevant or dedicated agencies. Some States have introduced comprehensive strategies and developed specialized institutional counter-terrorism structures and specific counter-terrorism units, but many have only begun to develop dedicated counter-terrorism capacities. A number of States continue to work to institutionalize the requisite capacity and coordination in their law enforcement systems. The level of interagency cooperation and coordination needs to be improved in most States. Although most States have access to INTERPOL criminal databases, in many States the use of this information is not consistent, effective, or wide-spread. Many States lack centralized databases and sufficient forensics capabilities to engage in complex counter-terrorism investigations. Most States are aware of the need for regional and international cooperation and have created relationships and mechanisms to facilitate early warning and a basic level of information-sharing. Nevertheless, regional and international cooperation in counter-terrorism matters requires further strengthening.

In order to limit the supply of weapons to terrorist organizations, States have enacted relevant legislation to criminalize a variety of weapons-related offences (including the illicit manufacturing, possession and trafficking in SALW, ammunition and explosives) and have set up related domestic enforcement programmes. However, there is a general need for States to review their legislative frameworks in order to correct certain gaps and strengthen their implementation of operational measures to effectively control, among other things, the production, sale, brokering and transfer of weapons and explosives, as well as their import and export across borders.

Priority recommendations for future action by the Committee

- **Promote interagency coordination and the exchange of counter-terrorism information, both at the national level and regionally/internationally**
- **Encourage States to establish dedicated counter-terrorism capacities, assisted by experts seconded from various specialized institutions, in areas such as criminal law, counter-financing of terrorism and border control**
- **Encourage greater cooperation with INTERPOL and the increased utilization of its resources and databases (e.g. Red Notices and watch lists).**

International cooperation

An important component - and, indeed, barometer - of international cooperation in the field of counter-terrorism is the ratification of the 16 international counter-terrorism instruments. Since the previous survey, an additional 127 ratifications have taken place. The 1999 International Convention for the Suppression of the Financing of Terrorism now has 169 State Parties (nine more than previously). The international instruments related to nuclear material have also seen a notable number of ratifications since the previous survey: the 1980 Convention on the Physical Protection of Nuclear Material now has 141 State Parties (10 more than previously). During the period under consideration, 15 States Parties ratified the 2005 Amendment to the Convention on the Physical Protection of Nuclear Material, which has now 28 State Parties. The 2005 International Convention for the Suppression of Acts of Nuclear Terrorism now has 54 State Parties (26 more than previously). Ratification rates are still low in respect of two instruments: only nine States have ratified the 2005 Protocol to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, and only seven States have ratified the 2005 Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf. A significant majority of Member States have become parties to 10 or more instruments. However, there are regional discrepancies in the level of ratification. In order to make the instruments fully effective, States should adopt domestic legislation that specifically criminalizes the offences set forth in the international instruments, sets appropriate penalties, and establishes jurisdiction over the defined offences in order to ensure that suspects are either extradited or prosecuted.

Effective international cooperation is central to the implementation of resolution 1373 (2001), which calls upon Member States to cooperate with one another in the exchange of information, mutual legal assistance

and extradition requests; and in denying safe haven to terrorists. Most States, in most regions, now have legal and administrative measures in place to grant legal assistance to other States upon request and enable extradition, especially on the basis of reciprocity. However, several States in South America, Western Asia, South Asia and Africa have yet to enact the relevant laws. Many States still need to enact laws allowing them to cooperate in more advanced modes of judicial and administrative cooperation.

An area in which many States face challenges is judicial cooperation in criminal matters. Even where there exists a legal basis for cooperation on counter-terrorism-related matters among States, achieving practical cooperation beyond limited bilateral arrangements continues to be a challenge. The reasons are both technical and political in nature. Some regions, such as the Western Europe group, have developed effective and advanced regional instruments and mechanisms for cooperation. Organizations such as the European Union, OSCE and the Council of Europe have developed advanced tools and instruments for cooperation for their Member States. OAS and the Commonwealth have also developed advanced tools for the use of their member States, and are also actively engaged in capacity-building. In East Africa, the Intergovernmental Authority on Development (IGAD), following the Declaration of the Ministers of Justice (Kampala, 2007), has initiated the drafting of two IGAD wide conventions on extradition and on mutual legal assistance. In 2008 the Rabat Declaration was adopted at the Fifth Conference of Ministers of Justice of the French-speaking African Countries on the implementation of the international counter-terrorism instruments.

The Committee actively cooperates with these organizations and with other active players in this area in order to strengthen the capacity of Member States to cooperate with one another. Development of modern tools, best practices, instruments and mechanisms for cooperation could assist regions and subregions in enhancing international cooperation, and the experience gained by other regions could be of benefit to them, as appropriate. At the practical level, some States face significant challenges with respect to effective cooperation in criminal matters. Some visited States still lack the basic tools for cooperation, including in the areas of human resources and technical equipment. A number of visited States face difficulties in cooperating owing to lack of training and know-how.

Priority recommendations for future action by the Committee

- **Encourage States not only to become party to all the international counter-terrorism instruments, but also to incorporate the elements of those instruments into domestic law**

- **Promote best practices and facilitate capacity-building and training for members of the judiciary, law enforcement agencies and other relevant civil servants in procedures for requesting and offering assistance in criminal investigations, mutual legal assistance and extradition matters**

- **Work with international, regional and subregional organizations on effectively implementing modern tools, best practices, instruments and mechanisms for cooperation.**

Human rights

The Security Council continues to stress the obligation for all States to ensure that any measures taken to combat terrorism comply with all their obligations under international law, and that they should adopt such measures in accordance with international law, in particular, international human rights, refugee, and humanitarian law.

The Committee routinely includes human rights issues relevant to Security Council resolution 1373 (2001) in its dialogue with Member States, both in its discussions with States on their submissions to the Committee and during on-site visits. In many States, questions related to human rights and counter-terrorism have been subject to debate in legislatures and other public forums. There have been some positive developments in strengthening human rights protections in the counter-terrorism context. For example, many States incorporate human rights into the training programmes they provided for law enforcement officials. Some States have adopted community-policing models that stress the importance of listening to public concerns and involving communities in the development of appropriate law enforcement strategies, which helps to reinforce a rights-based approach. In many States, the judiciary has asserted itself as a guarantor to ensure that counter-terrorism measures comply with the relevant human rights obligations. Moreover, international and regional organizations have developed best practices, guidelines and instruments to assist States in investigating and prosecuting terrorist acts while ensuring full respect for human rights and due process of law.

However, in virtually all regions there remain significant concerns that the counter-terrorism measures adopted by certain States, including measures adopted within the framework of resolution 1373 (2001), do not comply with those States' obligations under international law. This situation has continued to draw the close attention of United Nations and regional human rights mechanisms, as well as that of civil society.

One issue of continuing concern is the definition of terrorist offences and related concepts (such as support and assistance) contained in criminal legislation in some States. This issue is critical because such definitions provide the basis for the imposition of criminal sanctions and preventive measures (such as the freezing of assets) in accordance with the resolution. As noted by the Special Rapporteur of the United Nations Human Rights Council on the promotion and protection of human rights while countering terrorism, the international conventions and protocols relating to terrorism refer to a range of terrorist offences that can serve as a starting point for appropriate national legislation. However, definitions in some States remain vague or overbroad. This can lead to misuse and may also raise obstacles to international cooperation. Some States also lack effective procedures to allow persons affected by preventive measures to challenge such measures before independent bodies.

The practice of torture and ill-treatment in the context of counter-terrorism, particularly at the investigative stage, remains an issue of significant concern in some States. This issue is often linked to detention practices - such as indefinite or incommunicado detention - which are said to facilitate possible torture and ill-treatment. In addition to being prohibited in all circumstances under international law, the practice of torture and ill-treatment poses a serious obstacle to international legal cooperation and could prevent effective implementation of the resolution.

Many States address terrorism through the use of special investigative techniques, which are legitimate law enforcement tools if they are accompanied by effective safeguards. Some States have relied on special legal provisions or - as in a few cases - the imposition of states of emergency that have raised concerns of international mechanisms over possible infringement of the principles of necessity and proportionality and respect for non-derogable rights. Examples of special procedures include investigative or administrative detention regimes with limited judicial oversight, use of military tribunals, restrictions on access to counsel and evidence, and special powers granted to law enforcement authorities.

International mechanisms have raised concerns in some States over extrajudicial or arbitrary executions and have also drawn attention to transfers of terrorist suspects outside of legal procedures and to the use of hidden or unacknowledged detention. Concerns have also been raised over the lack of legal and practical provisions to ensure compliance with the prohibition on returning individuals to States where substantial grounds exist for believing such persons may be in danger of being subjected to torture or persecution. Regardless of whether States use diplomatic assurances in such cases, they must ensure that they comply with their obligations with regard to the principle of *non-refoulement*. Concerns also persist over an erosion of rights under international refugee law and obstacles to exercise of the right to seek asylum as a result of counter-terrorism measures.

Priority recommendations for future action by the Committee

- **Continue to take account of relevant human rights concerns in the assessment of States' implementation of Security Council resolution 1373 (2001), and include such concerns in dialogue with States, as appropriate**

- **Further develop cooperation with the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Special Rapporteur on the promotion and protection of human rights while countering terrorism, the Counter-Terrorism Implementation Task Force (CTITF) and other entities with human rights mandates, as appropriate**

- **Identify needs of States related to enhancing institutions and strengthening the rule of law; and recommend, where appropriate, that States consider seeking relevant assistance from OHCHR and other assistance providers.**

United Nations S/2009/621

Security Council

Distr.: General
3 December 2009

Original: English

Letter dated 1 December 2009 from the Secretary-General addressed to the President of the Security Council

I have the honour to refer to the African Union-United Nations Hybrid Operation in Darfur (UNAMID) which was established by the Security Council under resolution 1769 (2007) of 31 July 2007.

As you are aware, in its presidential statement of 19 December 2006 (S/PRST/2006/55), the Security Council endorsed the communiqué of the 66th meeting of the Peace and Security Council of the African Union, in which it is stated that the Special Representative for UNAMID shall be jointly appointed by the Chairperson of the African Union Commission and the Secretary-General of the United Nations after appropriate consultations.

In this regard, following consultations with the Chairperson of the African Union Commission, I would like to inform you that it is our intention to appoint Ibrahim Gambari (Nigeria) as Joint Special Representative for UNAMID with effect from 1 January 2010. Mr. Gambari succeeds Rodolphe Adada, who served as Joint Special Representative for UNAMID from the establishment of the mission until July 2009. I would like to take this opportunity to express my gratitude to Mr. Adada for his exemplary service during his tenure in UNAMID. I would also like to express my appreciation to Henry K. Anyidoho, who has served as Officer-in-Charge of UNAMID since Mr. Adada's departure.

I should be grateful if you would bring this matter to the attention of the members of the Security Council.

(*Signed*) **BAN** Ki-moon

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United Nations S/2009/622

Security Council

Distr.: General
3 December 2009
English
Original: French

Letter dated 3 December 2009 from the President of the Security Council addressed to the Secretary-General

I have the honour to inform you that your letter dated 1 December 2009 (S/2009/621) concerning your intention to appoint Mr. Ibrahim Gambari (Nigeria) as your Joint Special Representative for the African Union-United Nations Hybrid Operation in Darfur (UNAMID) has been brought to the attention of the members of the Security Council. They take note of the intention contained in your letter.

(*Signed*) Michel **Kafando**
President of the Security Council

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United Nations S/2009/623

Security Council

Distr.: General
4 December 2009

Original: English

Thirtieth report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo

I. Introduction

1. The present report is submitted pursuant to resolution 1856 (2008), by which the Security Council extended the mandate of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) until 31 December 2009 and requested me to report every three months on the situation in the Democratic Republic of the Congo. The report covers developments in that country since my report of 18 September 2009 (S/2009/472) until 25 November 2009.

II. Major developments

2. The overall situation in the east, especially in the Kivus and in parts of Orientale province, remained fragile during the reporting period. Military operations conducted by the Forces armées de la République démocratique du Congo (FARDC) in eastern Democratic Republic of the Congo, with the support of MONUC, continued to dislodge foreign and residual Congolese armed groups from their strongholds and enabled the Government to extend its control into previously inaccessible areas, including a number of important economic zones. MONUC also supported efforts to extend State authority, including through the deployment of national police elements to areas from which the Forces démocratiques de libération du Rwanda (FDLR) had been dislodged. Despite the enhanced and innovative measures taken by MONUC to protect civilians, the operations also took a heavy toll on civilians, who were displaced and subjected to reprisal attacks by retreating armed groups. Furthermore, the actions of undisciplined and recently integrated FARDC elements seeking to settle old ethnic scores resulted in serious violations of international humanitarian law, including killings of civilians. MONUC developed a policy paper setting out the conditions under which it could provide support to FARDC units, which was transmitted to the Government of the Democratic Republic of the Congo. On 1 November, MONUC suspended its logistical support for one FARDC unit suspected of having committed major human rights violations for which there was credible evidence. During the period, MONUC and FARDC developed a new joint operational directive, under which the military operations against FDLR are expected to move into a new phase, as described in paragraph 11.

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None of the challenges that have prevented the holding of local elections has been resolved, and a date for the elections has yet to be announced.

North and South Kivu

3. The Kimia II operations led by FARDC against FDLR gained momentum during the reporting period. In North Kivu, FARDC concentrated on dislodging FDLR from mining areas under its control in Walikale and southern Lubero territories. In South Kivu, the Kimia II operations progressively moved south towards Fizi territory.

4. In response to the Kimia II operations, FDLR conducted a series of reprisal attacks against the population as well as ambushes against FARDC positions, including in the Pinga, Rwindi, Kashebere and Kikuku areas of North Kivu and near Hombo and Luliba, in South Kivu. FDLR also continued to resort to banditry, kidnapping and hit-and-run attacks, often looking for food and medicine. Patterns suggested that FDLR was retaliating more brutally against civilians in areas where they had lost local business partners or where their protection rackets had come to an end.

5. The role played by MONUC in Kimia II continued to be focused on assisting FARDC with planning and on providing logistical support, including tactical helicopter lift, medical evacuation, fuel and rations. On a few occasions, the Mission also provided fire support to FARDC operations when deemed essential by MONUC commanders. In this regard, MONUC's support was critical in preventing FDLR from reoccupying some of the areas vacated as a result of the joint operations between FARDC and the Rwandan Defence Forces earlier in the year. Out of the approximately 60,000 FARDC troops deployed in the Kivus, only 16,000 earmarked for the joint operations — 8,000 each in North and South Kivu — benefited from MONUC support.

6. As a result of Kimia II, FDLR was dislodged from strongholds in Lubero, from its military and political headquarters in Masisi and from trading places in Nyabiondo and the surrounding area. It was also pushed back from areas where it had been illegally collecting taxes, including along the Bukavu-Walikale road, and from gold mining areas such as Kamituga. In North Kivu, the leadership of FDLR-Forces combattantes Abacunguzi was pushed back to remote areas north and west of Masisi, in Walikale territory, while the FDLR-Rally for Unity and Democracy faction took refuge in less-populated areas west of Lubero. Smaller groups remained active throughout the two provinces, and some fled into Maniema and Orientale provinces. Large spillover into Katanga was, however, prevented by FARDC forces stationed in the north of the province for that purpose. FARDC controlled all territorial capitals and all major population centres in the Kivus. Four hundred FDLR elements were reportedly killed in the operations.

7. Kimia II, alongside expanded MONUC sensitization operations, including in former FDLR strongholds, also created additional opportunities for individuals to break away from the group. Since my previous report, 412 ex-FDLR combatants and 464 dependants have been voluntarily disarmed and repatriated to Rwanda by MONUC, bringing the total since the beginning of the year to 1,378 combatants and 1,940 dependants. The United Nations High Commissioner for Refugees reported having repatriated to Rwanda 13,174 civilians, a number of whom alleged that they had been held hostage by FDLR. On 6 October, Idelphonse Nizeyimana, an indictee

of the International Criminal Tribunal for Rwanda, was arrested in Uganda and transferred to the Tribunal. On 17 November, in a major step forward in severing links with the leadership of the group, the German Federal Police arrested Ignace Murwanashyaka, President of FDLR, and his deputy Straton Musoni in Germany on charges of membership in a foreign terrorist organization and for war crimes and crimes against humanity committed in eastern Democratic Republic of the Congo.

8. Notwithstanding those positive developments, Kimia II also encountered major challenges. The humanitarian situation deteriorated during the reporting period as a result of the human rights violations committed by FDLR and FARDC elements. More than 1.25 million people are currently displaced or re-displaced in the Kivus, including some 675,000 in North Kivu and more than 580,000 in South Kivu. However, since the beginning of the year, nearly 500,000 internally displaced persons in North Kivu have returned to their areas of origin, largely as a result of improved security in Masisi and Rutshuru territories, with 40,000 in South Kivu having returned. In addition, tensions related primarily to land and ethnic issues have emerged in Masisi, Walikale and Rutshuru territories owing to the cross-border movement of an estimated 11,000 or more people from Rwanda into the Democratic Republic of the Congo.

9. In addition to MONUC, a number of international non-governmental organizations reported alleged or confirmed massacres and gross human rights violations committed by elements of FARDC against civilian populations. As a result of those egregious violations, human rights organizations and some components of the United Nations system called for an immediate end to Kimia II and for the withdrawal of MONUC support for FARDC. They expressed the view that, under the circumstances, the support provided by MONUC to Kimia II could not be reconciled with the Mission's mandate of protecting civilians. There was also the view that the support provided to FARDC by MONUC in implementing the mandate entrusted to it by the Security Council put the Mission in a difficult position and could potentially expose it to charges of association with serious violations of international humanitarian law committed by elements of FARDC. Some human rights organizations called for a suspension of the military operation to permit a reconsideration of the current strategy and the nature of the Mission's support for FARDC, while other national and international stakeholders maintained that Kimia II was making progress on the military front and that the current operations should continue, with MONUC support, until the threat posed by FDLR was neutralized.

10. MONUC continued to press the Government to take concrete action against impunity within FARDC and, by providing rations and logistical support to the troops involved in Kimia II, continued to help prevent 16,000 troops from living off the population. In addition to President Kabila's declaration in July that there would be reinforced implementation of a "zero-tolerance" policy regarding abuses and violations by FARDC, as a result of the advocacy of MONUC, the Mission provided support to the Military Prosecutor of the Democratic Republic of the Congo in investigating crimes committed by FARDC personnel.

11. Since September, MONUC and FARDC have conducted planning for the next phase of the operations against FDLR, which has yielded the development of an updated joint operations directive. Under the directive, the military operations in the next phase are expected to concentrate on a "clear, hold and build" strategy. This

implies a shift to limited, jointly planned military operations that will focus on clearing identified areas in which FDLR elements are attempting to regroup and on the group's remaining leadership; holding the cleared key areas; and assisting the Congolese authorities in establishing legitimate, credible and civilian State authority in areas from which FDLR has been dislodged, including building the necessary institutional capacities and infrastructure under the United Nations Security and Stabilization Support Strategy. The next phase foresees the eventual demilitarization and control of mining areas.

12. With regard to FARDC indiscipline, MONUC developed a policy paper setting out the conditions under which the Mission can provide support to FARDC units, which was transmitted to the Government of the Democratic Republic of the Congo and entered into effect in November. The policy specifies that MONUC will not participate in or support operations with FARDC units if there are substantial grounds for believing that there is a real risk that such units will violate international humanitarian, human rights or refugee law in the course of the operation. MONUC will also participate in or support only those operations that fully comply with international humanitarian, human rights and refugee law, and will participate only in operations that are jointly planned.

13. On the basis of the policy, MONUC will immediately intercede with the FARDC command if the Mission has reason to believe that elements of a unit receiving its support is committing grave violations of human rights, international humanitarian law or refugee law, and it will suspend support for a unit if FARDC takes no action against those responsible or if the elements of the unit nevertheless continue to commit violations. Both the military and human rights components of MONUC will closely monitor FARDC conduct and the application of this conditionality policy. Furthermore, I have decided to send a mission to the Democratic Republic of the Congo, led by the Department of Peacekeeping Operations, to assess the policy and related issues.

14. Those steps will be taken in conjunction with the non-military measures foreseen under the multidimensional strategy to deal with FDLR, as outlined in paragraph 51.

15. There also continued to be major challenges to FARDC integration, with respect not only to former members of the Congrès national pour la defense du peuple (CNDP), who maintained a parallel chain of military and political command and control over a number of mining areas, but also to all groups newly integrated into FARDC. This was due in part to the failure of the Government to make progress on the implementation of the political aspects of the 23 March Agreements between the Government and Congolese armed groups, and the issues connected to rank and status within FARDC. It was due also to the lack of progress in the area of security sector reform, including training and vetting, inconsistent payroll and salary arrears with respect to FARDC and difficulties in supplying and communicating with units deployed in the hinterland. Unless those issues are resolved, the lack of accountability and weak command and control within FARDC will continue to pose serious challenges.

16. Limited progress was achieved in the implementation of the 23 March Agreements. During the reporting period, mechanisms for assisting the war-wounded, widows and orphans were established. However, key provisions of the Agreements, including the integration of elements from the armed groups into

national political life, remained unimplemented. In addition, there were continued delays regarding the establishment of community reconciliation initiatives and support structures for returning internally displaced persons and refugees. On 10 November, Désiré Kamanzi, President of CNDP, announced his resignation, citing concerns regarding the Government's delay in implementing the Agreements. The Government has indicated its intention to hold in mid-December a final meeting of the national committee on follow-up to the 23 March Agreements.

Orientale province

17. Rudia II, the operation led by FARDC against the Lord's Resistance Army (LRA), continued, in cooperation with the Uganda People's Defence Forces and with logistical support from MONUC. Although there was an improvement in the security situation in parts of Orientale province, LRA attacks against civilians continued, including reported executions, abductions and sexual violence.

18. Since September, MONUC has received reports that 83 civilians have been killed by LRA, and in October humanitarian partners reported 21 attacks in Haut and Bas Uélé. In addition, local authorities of the Democratic Republic of the Congo reported an increase in undisciplined behaviour by FARDC elements following the replacement of FARDC Republican Guard units with the newly integrated FARDC units in the context of the Rudia II operations. However, on 3 November, in a significant development, Colonel Charles Arop, who had commanded LRA operations in Haut Uélé at the time of the Christmas 2008 massacres committed by LRA, surrendered.

19. An estimated 270,000 people were displaced in Haut and Bas Uélé at the time of reporting. Between September and October, the displaced population increased from 15,800 to 26,600 in Ango territory, in Bas Uélé, although improved security led to the return of more than 35,000 displaced people to Dungu and Faradje territories, in Haut Uélé.

20. Since my previous report, MONUC has reinforced its installations in Dungu in order to support its bases in Isiro, Dingila, Duru and Faradje. MONUC has also continued to provide escorts and security in support of the delivery of humanitarian assistance. In addition, Radio Okapi has begun broadcasting in Dungu and Faradje territories, which have contributed to the surrender of several isolated LRA elements.

21. In Ituri district, where some 175,000 people remain displaced — although the remnant armed groups Forces de résistance patriotique d'Ituri and Front populaire pour la justice au Congo continued to mount sporadic attacks from strongholds in southern Irumu — FARDC was able to maintain control of the militia bases captured in the context of Operation Iron Stone. Political efforts initiated by national and provincial authorities with the support of MONUC, aimed at ending the conflict in southern Irumu, also continued.

Equateur province

22. On 29 October in Equateur province, disputes between armed villagers of the Lobala community and other communities in the Dongo area, related to fishing rights, resulted in the killing of an estimated 47 *police d'intervention rapide* and the consequent displacement of some 36,000 people to the Republic of the Congo and

approximately 14,000 within Kungu territory of the Democratic Republic of the Congo. A special commission including Government and National Assembly representatives was established and deployed to the area to prevent further violence. The *police d'intervention rapide* also reinforced their presence in the town, and an inter-agency mission was sent to assess the humanitarian situation. However, additional clashes were reported in November up to the time of the submission of the present report. It was estimated that more than 100 people had been killed since the beginning of the clashes.

23. On 13 November, following elections organized in Equateur province by the Commission Electorale Indépendante, the former Mouvement pour la libération du Congo (MLC) Governor of Equateur, who had been dismissed by the Supreme Court on charges of embezzlement, was replaced by an independent candidate, Jean-Claude Baende. Equateur was the only remaining province under the leadership of the opposition MLC party.

Activities of the Special Envoy

24. During the reporting period, my Special Envoy on the Great Lakes Region, Olusegun Obasanjo, continued to encourage the Government of the Democratic Republic of the Congo to accelerate the implementation of the 23 March Agreements. He also met with President Kabila, on 17 October, and with Presidents Kagame and Dos Santos, individually, on 27 October. Each of the three leaders shared his views regarding the consolidation of the positive political developments in the eastern part of the country and of the improved relationship between the Democratic Republic of the Congo and Rwanda.

25. In view of the success achieved in substantially meeting the objectives of his mandate, and further to consultations with President Kabila, the Special Envoy proposed to step back from direct engagement in facilitating the peace process in eastern Democratic Republic of the Congo after submitting a final report to the African Union and the International Conference on the Great Lakes Region in early 2010. However, the Special Envoy and his co-facilitator, former President Benjamin Mkapa, remain available in the event of a serious deterioration in the political situation in eastern Democratic Republic of the Congo and the Great Lakes region. Special Envoy Obasanjo also proposed that his Special Adviser, General Sumbeiywo, and the small support office in Nairobi continue their functions until mid-2010.

Regional relations

26. While improved relations between the Democratic Republic of the Congo and neighbouring Great Lakes countries continued to deepen, relations between the Democratic Republic of the Congo and Angola experienced some strain, owing to a maritime border dispute and mutual expulsions of each other's nationals. On 11 May, the Democratic Republic of the Congo submitted to me information indicative of the outer limits of its continental shelf beyond 200 nautical miles. In a letter dated 31 July addressed to me, the Government of Angola rejected the position of the Democratic Republic of the Congo and expressed its readiness to resolve the matter through relevant international legal mechanisms.

27. Since December 2008, more than 160,000 Congolese have been expelled from Angola. On 2 October, the Democratic Republic of the Congo expelled 68 Angolans

from Bas-Congo, which was followed on 6 October by another 1,867 expulsions. An estimated additional 20,000-40,000 Angolans residing in the Democratic Republic of the Congo faced deportation. On 12 and 13 October, following a visit to Kinshasa by the Angolan Vice-Minister for External Relations, the two countries issued a joint communiqué officially suspending the expulsions by both countries and established a bilateral process for addressing cross-border migrant issues. They also agreed on reconvening the bilateral Angola-Democratic Republic of the Congo Mixed Commission in Luanda.

28. On 24 October, President Kabila chaired the Fourteenth Summit of the Economic Community of Central African States, which launched a regional centre for maritime security in Central Africa.

Protection of civilians

29. MONUC continued to take important innovative measures to protect civilians from attacks by illegal armed groups and FARDC elements, and this had a significant impact on the lives of thousands of Congolese. The Mission investigated reports of human rights violations in order to take preventive action, within its limited resources.

30. Since the beginning of Kimia II, MONUC has fielded more than 65 Joint Protection Team missions to more than 25 locations, including 10 during the reporting period, in order to augment the capacity of the MONUC military component to anticipate and prevent attacks on the population. In addition, MONUC has established more than 50 temporary operating bases and company operating bases throughout the Kivus, aimed at ensuring its presence near vulnerable population centres. The Mission has also continued to patrol key axes to facilitate the safe delivery of humanitarian assistance, and has provided armed escorts on market days to ensure that villagers can travel to and from the marketplace.

31. MONUC continued to actively assist FARDC and the Police nationale congolaise (PNC) in combating impunity, by providing operational support to authorities of the Democratic Republic of the Congo with a view to conducting investigations into allegations of human rights violations. The Mission also deployed a joint investigation team to follow up on allegations of human rights violations by FARDC and PNC. On 23 October, in the context of the Government's "zero-tolerance" policy, the FARDC commander of operation Kimia II issued a directive on the formation of joint FARDC-MONUC commissions of inquiry to verify reported FARDC violations in the Kivus.

32. On 1 November, MONUC suspended its support for a FARDC unit found by the Mission to have targeted and killed at least 62 civilians, including women and children, between May and September in the Lukweti area, in North Kivu. Investigations conducted by other human rights organizations indicate that as many as 270 civilians may have been killed over this period.

33. A United Nations system-wide strategy on the protection of civilians was developed during the reporting period to coordinate responses to this key priority. The key elements of the strategy include: (a) harmonizing the gathering and analysis of data and analysing the impact of military operations against civilian populations; (b) anticipating, preventing and mitigating protection risks to civilians, including internally displaced persons; (c) establishing accountability mechanisms for

combating impunity through regular monitoring and public reporting on violations, and by improving access to assistance, justice, rehabilitation and redress for victims; and (d) promoting the rule of law, building the capacity of the military justice system and supporting the restoration of State authority and the implementation of durable solutions, including within the framework of the United Nations Security and Stabilization Support Strategy.

United Nations Security and Stabilization Support Strategy

34. Important progress was achieved in supporting the Government's Stabilization and Reconstruction Plan for War-Affected Areas within the framework of the Strategy. In South Kivu, the United Nations Development Programme (UNDP) and the International Organization for Migration (IOM) continued to rehabilitate accommodation facilities in order to garrison approximately 3,000 FARDC elements at Camp Saio. Two additional garrison sites were evaluated, in Nyamunyunyi and Nyangezi, South Kivu. MONUC will evaluate, jointly with FARDC, the United Kingdom Department for International Development, IOM and the European Union Mission of Assistance for Security Sector Reform, a total of 25 proposed sites in eastern Democratic Republic of the Congo. In addition, more than 30 State buildings, including police stations, courts, prisons and local administrative offices, were under construction in the Kivus and Ituri, with completion expected in early 2010. Road and bridge rehabilitation efforts continued, including the completion of the rehabilitation of the Ituri I bridge and the commencement of work on the Bukavu-Shabunda road by the United Nations Office for Project Services and MONUC military engineer contingents.

35. On 22 October, the steering committee for the Stabilization and Reconstruction Plan for War-Affected Areas held its first meeting, which launched joint coordination structures at the national, regional and provincial levels. The steering committee also approved the Priority Plan for the Democratic Republic of the Congo, which will determine the allocation of the $20 million from the Peacebuilding Fund. On 6 November, Prime Minister Muzito and my Special Representative co-chaired the first meeting of the joint Government-United Nations funding board of the Stabilization and Recovery Funding Facility, which will, inter alia, support the implementation of the Plan and the Strategy. The funding board, which includes the participation of the country's Minister of Planning, Plan Coordinator Abbé Malu Malu, two United Nations agencies, 12 contributing donors and the United Nations Stabilization Support Unit, will oversee a current allocation of approximately $32 million, including the funds from the Peacebuilding Fund and pledges of $2.7 million and €6 million to €10 million from the Netherlands and Belgium, respectively, earmarked for sexual violence, in addition to the $139 million currently programmed within the framework of the Strategy.

Illegal exploitation of natural resources

36. Within the framework of the United Nations Security and Stabilization Support Strategy, the Government, MONUC and partners agreed to establish, as a pilot project, five trading counters in North and South Kivu to bring together all State services involved in the ore business, in order to improve traceability and provide counters closer to mining areas. In October, MONUC and the country's Ministry of Mines organized joint missions to visit key mining sites in order to assess the

security situation. In addition, MONUC and PNC continued to carry out random checks at Goma and Bukavu airports.

Humanitarian situation

37. At the time of reporting, it was estimated that more than 2 million people remained displaced throughout the Democratic Republic of the Congo.

38. In North Kivu, despite improved security in Masisi and Rutshuru territories, humanitarian operations in the province, estimated to be providing services for 70 per cent of the affected population, were severely restricted by the security situation. During 2009, there have been 125 attacks on humanitarian actors in North Kivu, including three murders, committed mainly by criminal gangs. In South Kivu, 25 attacks, including one murder, have been recorded.

39. In South Kivu, the security situation prompted the displacement of populations to areas perceived to be safer, including Shabunda, Kalehe, Uvira and Fizi territories. Access to identified and potential beneficiaries was also reduced in areas in those territories, including as a result of poor road conditions. In Haut and Bas Uélé territories, humanitarian access to affected populations beyond the Dungu area remained a challenge owing to minimal road infrastructure and volatile security conditions.

Human rights situation

40. The human rights situation deteriorated significantly during the reporting period, including as a result of the ongoing military operations in conflict-affected areas, as shown by the Mission's preliminary investigation into events that had taken place in Lukweti, North Kivu. These concerned violations of the right to life; violations of the right to physical integrity, including sexual violence; and violations of the right to liberty and security of person. Of particular concern was the significant number of violations committed by FARDC, including by newly integrated elements. Serious human rights violations were also committed throughout the country by PNC elements during the reporting period.

41. Between 5 and 15 October, the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions visited the Democratic Republic of the Congo. He expressed his view that, from a human rights perspective, Kimia II had produced "catastrophic results". The Special Rapporteur made six key recommendations aimed at tackling impunity in the country and underscored the need for reform of the penitentiary system and for the removal of key members of the military alleged to have committed war crimes, crimes against humanity or other serious offences.

42. Exactions targeting human rights defenders and journalists throughout the country continued. On 21 September, Golden Misabiko, Chair of the Association africaine de défense des droits de l'homme in Katanga, was convicted on the basis of limited evidence of having deliberately spread false reports and was sentenced to one year of imprisonment, of which eight months were suspended. Following the issuance of a communiqué in which he had condemned alleged inhumane working conditions in a company in Bas-Congo, Robert Ilunga Numbi, Chair of the non-governmental organization Les Amis de Nelson Mandela pour la défense des droits de l'homme, was detained for one month. Before he was provisionally

released, on 1 October, the charges against him included incitement to rebellion and defamation. On 17 November, the Mission's human rights component released a report on the appeal proceedings related to the assassination of Serge Maheshe, a Congolese journalist killed on 13 June 2007. The report highlighted the plight of human rights defenders, including journalists, as well as the poor functioning of the justice system.

43. On 30 October, despite appeals by several human rights organizations and other international partners encouraging the Government of the Democratic Republic of the Congo to take action with regard to the arrest of Bosco Ntaganda, against whom an arrest warrant had been issued by the International Criminal Court on the basis of crimes allegedly committed in Ituri in 2002 and 2003, the Government spokesperson reiterated the Government's position ruling out his arrest and transfer to the Court at that stage. The Government, however, also repeated, further to its letter dated 27 May to MONUC, its confirmation that Ntaganda did not exercise command functions within FARDC, including in the context of Kimia II, despite reports to the contrary that had continued to surface. MONUC has made it clear to the Government that there would be significant legal obstacles to its participation in or support of an operation in which Bosco Ntaganda were to play a prominent role.

Economic and financial situation

44. The economic situation improved during the third quarter of 2009 as a result of an increase in key commodity export prices. However, inflation peaked in October at a rate of 50.8 per cent, driven both by the budget deficit and by an increase in domestic demand. On 10 October, the Government presented to the National Assembly the 2010 budget, totalling approximately $5.3 billion, 50 per cent of which was based on projected spending by donors. The obstacles to the achievement of the completion point of the Heavily Indebted Poor Countries Debt Initiative were lifted following the renegotiation of China's bilateral agreement with the Democratic Republic of the Congo on mining and infrastructure investments, paving the way for the completion of the debt relief process in 2010.

Institutions of Government and Parliament

45. During the most recent ordinary session of the National Assembly, a motion of no confidence against Prime Minister Muzito was presented by the opposition parties in Parliament, based on claims of financial mismanagement and a perceived lack of effective results on the part of his Government. The National Assembly rejected the motion on 17 October.

46. Progress regarding the adoption of key outstanding legislation remained slow. Although Parliament began its seventh regular session on 15 September, key pending issues remaining on the agenda included the adoption of the 2010 national budget and laws relating to the elections, the decentralization process, army reform and the national judicial architecture.

47. On 23 September, in a development criticized by a number of national actors and international observers, the President of the Senate confirmed that the Senate had been requested to nominate two members to participate in an ad hoc commission to develop recommendations on reform of the Constitution. The commission is reportedly reviewing the duration and number of presidential terms,

the membership of the President in the *Conseil Supérieur de la Magistrature* and provisions pertaining to the decentralization process.

III. MONUC mandate implementation

48. On 24 November, at a meeting in Kinshasa with the ambassadors of the Southern African Development Community, the permanent members of the Security Council and MONUC, President Kabila denied rumours that he had requested the immediate drawdown of the Mission. However, the President requested the United Nations system in the country to submit a proposal, including a calendar, for a progressive drawdown, preferably commencing by 30 June 2010, based on the evolution of the security situation in the country. The calendar and the modalities of the drawdown will be mutually agreed upon between the Government and the United Nations.

Development of the Integrated Strategic Framework

49. MONUC and the United Nations country team began the development of an overarching strategy for the United Nations system in the Democratic Republic of the Congo in the form of the Integrated Strategic Framework. The Framework, which is expected to be finalized in early 2010 in consultation with the Government and key stakeholders, will include a shared vision of the Organization's objectives and a set of agreed results, timelines and responsibilities for tasks critical to the consolidation of peace. The Framework will incorporate the United Nations system-wide strategy for the protection of civilians and a multidimensional strategy for addressing the issue of FDLR. It will also take into consideration a plan for the successful completion of military operations against FDLR, LRA and the residual armed groups in Ituri, as well as for security sector reform; an outline of the United Nations Security and Stabilization Support Strategy, including additional resources required; and a plan for supporting local elections. The Framework will also incorporate the plan to implement the comprehensive strategy on combating sexual violence in the Democratic Republic of the Congo.

50. In the preparation of the Framework, a senior management workshop was held in Kinshasa on 3 September, during which the United Nations system defined common strategic objectives and priorities for the period 2010-2012. The workshop was followed by the composition of technical working groups organized around thematic pillars, involving relevant components of MONUC and the United Nations country team at the working level.

Multidimensional approach to address FDLR

51. In parallel to the ongoing military operations against FDLR, the United Nations developed a multidimensional strategy, including non-military actions, for addressing the security threat posed by FDLR. These include: (a) encouraging and assisting the Democratic Republic of the Congo and Rwanda in defining an end state for the resolution of the FDLR issue; (b) encouraging Member States to take the necessary legal actions against the group's leadership residing in their countries, including through the effective implementation of the Democratic Republic of the Congo sanctions regime and the prosecution of sanction violations; (c) enhancing disarmament, demobilization, repatriation, resettlement or reintegration efforts,

including through an information campaign, which should involve the Democratic Republic of the Congo, Rwanda and MONUC; (d) exploring further measures that could be considered in order to promote the voluntary return and durable socio-economic integration of non-*génocidaire* FDLR rank and file; and (e) supporting the extension of State authority and a sustained security presence in areas from which FDLR elements have been dislodged.

MONUC reconfiguration and deployment of additional capabilities

52. Progress was made during the reporting period in deploying the pledged additional capabilities authorized by resolution 1843 (2008). In addition to one Belgian C-130 aircraft deployed in June, two infantry battalions from Bangladesh and Egypt and two special forces companies from Egypt and Jordan arrived and will be operational in eastern Democratic Republic of the Congo by the end of the year, along with one formed police unit from Bangladesh. Those deployments brought the total number of pledged personnel deployed to the Democratic Republic of the Congo to approximately 2,050, out of the authorized 3,085.

53. Of the remaining pledged additional capabilities, one engineer company from Bangladesh, two helicopters from Uruguay and one newly pledged helicopter from Bangladesh are scheduled to arrive in the Democratic Republic of the Congo by the end of January 2010. The deployment of 200 trainers from Tanzania is expected by the end of the year, pending the finalization of support capability arrangements. A third helicopter from Uruguay is expected to be deployed by June 2010. While 13 pledged intelligence officers will be deployed to the Democratic Republic of the Congo by the end of the year, the deployment of an additional 37 specialists is awaiting the commitment and deployment of additional equipment. In addition to the critical needs in this area, there have been no pledges thus far for one C-130 aircraft and 14 utility helicopters.

54. The deployment of the additional capabilities is expected to enhance the Mission's capacity to protect civilians, including by increasing the number of locations where it can deploy and redeploy forces as necessary to ensure its presence in the most vulnerable areas, and by significantly enhancing the Mission's reserves and its rapid reaction capacity.

55. In this regard, the two special forces companies, together with the existing Guatemala special forces company, are currently deployed in North Kivu, South Kivu and Ituri. They are expected to reinforce the information-gathering and response capability of MONUC in those areas and, once the additional requested air assets have been deployed, will operate throughout the Mission's area of operation at short notice. The enhanced special forces capability of MONUC will also provide options for more focused actions.

56. The Egyptian battalion deployed in South Kivu will complement the Uruguayan battalion in North Kivu to provide the force with an operational reserve throughout the Democratic Republic of the Congo. Once supported with adequate mobility assets, particularly helicopters, these battalions will be able to concentrate forces where needed and at short notice.

57. The Tunisian battalion based in Kinshasa will be redeployed to Bas Uélé territory in the coming months. In addition, the newly deployed Bangladeshi

infantry battalion replaced the Pakistani battalion in Ituri, which will complete its relocation to South Kivu to reinforce the Pakistani brigade by the end of the year.

58. Given the displacement of a number of FDLR elements to Orientale, Maniema and Katanga provinces, MONUC consolidated the Senegalese battalion in Kisangani to support monitoring operations in Maniema and in the Maiko forest, which stretches into Orientale province, while a platoon from Benin was redeployed to northern Katanga in support of FARDC preventive deployments there.

59. Furthermore, an additional formed police unit from Bangladesh was deployed to South Kivu during the reporting period, and a unit from Egypt is expected to be deployed in the coming months. These units are tasked with reinforcing the operational capacity of PNC units in eastern Democratic Republic of the Congo and will participate with PNC in joint protection teams, joint investigation teams and joint patrolling of key axes. The two formed police units will also provide training for PNC elements on public order management and crowd control techniques.

Handover of MONUC tasks in western Democratic Republic of the Congo

60. In its resolution 1856 (2008), the Security Council requested me to present recommendations on the progressive handover of tasks listed in paragraph 4 of the same resolution from MONUC to the United Nations country team and bilateral and multilateral donors, in order to enable the Mission to concentrate its efforts on eastern Democratic Republic of the Congo. A Technical Assessment Mission that had visited the country last March had developed proposals for the progressive handover of tasks over a period of 6 to 24 months, on which I reported to the Council in my report of 27 March (S/2009/160).

61. During the reporting period, limited progress was achieved regarding the handover of tasks from MONUC to the United Nations country team. The team continued to outline two main concerns in this regard. First, donor pressure and needs in eastern Democratic Republic of the Congo had continued to result in a concentration of some 83 per cent of the team's financial and human resources in the east, thus limiting the possibilities for agencies, funds and programmes to mobilize the capacities necessary to assume relevant tasks currently performed by MONUC in the west. Secondly, the team continued to rely heavily on MONUC assets for mobility and accessibility, as well as for the provision of local security.

62. Satisfactory progress has been made towards concentrating the Mission's capacities in the east. Once the transfer of the Tunisian battalion to Bas Uele (referred to in paragraph 57 above) has been completed, MONUC will have deployed more than 98 per cent of its military component to eastern Democratic Republic of the Congo. Of the Mission's authorized strength of some 19,800 troops, approximately 460 will remain in the west, in addition to the staff at force headquarters and a limited number of military observers in key locations. Of the seven formed police units in MONUC, two will remain in the western provinces and three in Kinshasa. On the civilian side, less than 9 per cent of MONUC staff was deployed in the western provinces, outside Kinshasa and eastern Democratic Republic of the Congo.

63. The redeployment of most of the remaining civilian and logistical capacity in the west will be guided by the Integrated Strategic Framework. The Framework will provide the platform necessary for the joint advocacy effort needed to raise

resources for transition activities and the build-up of the United Nations country team in provinces in which MONUC is drawing down. In order to ensure a gradual transfer from stabilization to recovery activities, it is proposed that relevant parts of the Framework be funded through a coordinated funding mechanism, using the Stabilization and Recovery Funding Facility.

Rule of law

64. Military justice continued to be reinforced during the reporting period, although concerns regarding due process remained with respect to the extraordinary jurisdictions established in the Kivus, including the military operational court. Those jurisdictions have conducted more than 30 prosecutions against soldiers accused of serious crimes, including rape and war crimes, and have handed down severe sentences, including the death penalty, on which the Democratic Republic of the Congo has imposed a moratorium. While these mechanisms have contributed to discipline within FARDC, there continued to be serious doubts regarding their legal basis and their compliance with fair trial standards, particularly since they do not contemplate a right of appeal.

65. The five senior FARDC officers accused of having committed acts of sexual violence that were raised with President Kabila during the visit of the Security Council mission to the Democratic Republic of the Congo in May, were removed from operational command positions within the army but have yet to be prosecuted. According to the Government, Colonels Safari and Mobuli are in pretrial detention in Kinshasa. General Kakwavu and Colonel Mosala are under controlled supervision in Kinshasa. Major Pitchen is reported to have fled. MONUC continued to follow up, offering support to the country's Military Prosecutor with a view to conducting relevant investigations in order to bring the five alleged perpetrators to justice.

66. MONUC deployed technical staff to initiate the pilot prosecution support cell in North Kivu. The team, which will include two military police investigators and two police investigators, will provide support to Congolese prosecutors and investigators in bringing to justice FARDC elements suspected of having committed rape and other serious offences. Additional teams are foreseen for South Kivu, Ituri, Maniema and Katanga.

67. The civilian justice system remained handicapped by a lack of human and financial resources. The *Conseil Supérieur de la Magistrature* continued to operate without a budget, impeding the exercise of its responsibilities, including those related to the accountability of judges. This was compounded by systemic deficiencies, including with respect to the maintenance of criminal records.

68. In cooperation with the country's Attorney-General, MONUC began preparations for an inspection mission aimed at reducing prison overcrowding caused by excessive pretrial detention. The Mission supported training for guards at eight major provincial prisons, rehabilitated six incarceration facilities and implemented a number of smaller-scale projects aimed at creating infirmaries, improving security and providing electric power and clean water to prisons. MONUC also assisted in the establishment or expansion of prison gardens and farms in several facilities, in Katanga, Equateur and North Kivu provinces. In addition, MONUC actively engaged national authorities to promptly deploy judicial and corrections personnel in North Kivu, South Kivu and Ituri. Nonetheless, riots, escapes and deaths due to starvation and dire prison conditions remained

commonplace, and the absence of a functioning State prison system continued to affect security across the country.

Sexual and gender-based violence

69. Rape and other forms of sexual violence remained a matter of serious concern, and victims of such violence continued to face enormous difficulties. Expensive judicial fees, amicable settlements, threats against victims and ignorance of the law on the part of PNC and some victims also hindered the fight against impunity.

70. On 1 November, MONUC and the United Nations country team finalized the plan for the implementation of the comprehensive strategy on combating sexual violence. Joint coordination mechanisms with the Government on sexual violence were revised and streamlined through the creation of a special window on sexual violence within the Stabilization and Recovery Funding Facility and mechanisms for supporting the implementation of the plan.

71. MONUC and partners provided training on specialized sexual-violence judicial procedures to 891 FARDC officers, as well as to judges, lawyers and detention personnel. In addition, the Mission supported the creation of specialized sexual and gender-based violence units within PNC in all provinces of the country. In collaboration with the United States Agency for International Development, MONUC also developed a concept for the establishment of anti-sexual-violence cells and for the training of 400 PNC officers in Ituri district.

72. With regard to victim support, MONUC continued to carry out the capacity-building and mentoring of paralegals, non-governmental organizations and bar associations providing legal assistance to survivors, and facilitated victims' access to justice. Those efforts were complemented by the provision of medical assistance to survivors, including emergency post-exposure prophylaxis, emergency maternal care and HIV/AIDS treatment, by relevant United Nations agencies. In addition, activities on the prevention of sexual violence, targeting communities and ensuring that self-protection measures were in place were conducted by United Nations agencies and non-governmental organizations.

Child protection

73. MONUC and partners continued to advocate the release of children within FARDC. Since the beginning of the year, MONUC has facilitated the release of 2,284 children from the force. Together with partners, MONUC continued to follow up with FARDC on the development of an action plan to prevent the recruitment and use of children by the force and to facilitate their release.

Security sector reform

74. Lack of progress in the critical area of security sector reform remained a major concern during the reporting period.

Army

75. As indicated earlier, unvetted and poorly equipped, trained and sustained FARDC troops continued to commit serious human rights violations. The situation was further aggravated by the irregular payment of salaries and allowances, by a lack of barracks and family support and, in some instances, by ethnic agendas

carried forward by newly integrated armed group elements. The incomplete integration of the Congolese armed group elements into FARDC and the challenges that had emerged in that regard were also a major factor affecting progress with respect to reform of the army. However, the European Union Mission of Assistance for Security Sector Reform completed a census of 17,587 armed group elements newly integrated into FARDC, which was an important step towards the establishment of a system for ensuring the regular payment of those elements. In addition, MONUC began to develop mechanisms for ensuring that FARDC soldiers implicated in serious human rights violations would not participate in the MONUC "main training project plus", which is expected to start in January 2010.

76. During the reporting period, Parliament reviewed three draft organic laws, pertaining to reform of FARDC, the Supreme Defence Council and the status of FARDC military personnel. Those laws included a number of areas of concern, including with respect to a lack of precision regarding the roles, responsibilities, size and capacities of the force components. However, they also contained important language on preventing the misuse and ill-discipline of FARDC.

77. MONUC took steps towards leading coordination among international partners on security sector reform. On 23 September in Kinshasa, MONUC hosted the first ambassadorial-level meeting on such reform, which brought together a range of key international partners. Participants agreed to hold regular senior- and technical-level meetings on security sector reform under the Mission's leadership in order to facilitate improved coordination and the development of a common vision in support of national efforts in this area.

Police

78. Cooperation with the European Union Mission of Assistance for Security Sector Reform and the European Union Police Mission in the Democratic Republic of the Congo was strengthened through the establishment of weekly joint coordination meetings. In addition, on 26 October the fourth session of the Police Reform Monitoring Committee adopted a three-year priority action plan and a 15-year action plan for police reform. However, the plans have yet to be approved by the Government, and the adoption of the organic law that will provide the legal framework required for reform of the police remained pending. In November, the Police Mission began the PNC census operation, in coordination with the United Nations police.

79. Separately, as part of the United Nations Security and Stabilization Support Strategy, MONUC supported the deployment of some 300 PNC elements to seven police stations in North Kivu and of another 480 to targeted areas in South Kivu and Ituri. A total of 120 border police were also deployed. In addition, MONUC provided special training on defensive tactics to the PNC units deployed along the Rutshuru-Ishasha axis, in North Kivu.

80. MONUC further supported the deployment of 1,500 *police d'intervention rapide* officers in North and South Kivu and Haut Uélé. In order to accommodate those elements, the Mission established temporary camps in Rutshuru, Baraka, Fizi, Kanyola, Walungu and Bitale.

81. MONUC and UNDP, in collaboration with the Japan International Cooperation Agency, continued to implement a training programme for 6,200 PNC officers in

Kinshasa, Bas-Congo, North Kivu and Orientale provinces. The programme includes the rehabilitation of police training centres in Kinshasa, Bas-Congo and Orientale provinces. One hundred PNC officers were also trained to conduct humanitarian escort duties.

82. On the basis of an initial list of some 2,067 CNDP Mayi Mayi elements, 1,425 elements reported for integration into PNC. The remainder were expected to register in the coming weeks. Once screened for human rights violations, selected elements will be trained by MONUC for integration into PNC. However, the Mayi Mayi groups have claimed that an additional 4,695 elements await such integration.

Disarmament, demobilization, repatriation, resettlement or reintegration and disarmament, demobilization and reintegration

83. In addition to the 1,870 Rwandan ex-combatants, including FDLR elements, and 1,994 dependants repatriated to Rwanda since January, MONUC has repatriated 93 combatants to Burundi and Uganda and 21 to the Central African Republic and the Sudan since January.

84. Since my previous report, more than 6,027 ex-combatants have been demobilized as part of the second phase of the Programme national de désarmement, démobilisation et réinsertion, while more than 7,506 elements have chosen to integrate into the army. While the World Bank financing of $50 million for the Programme is scheduled to close in June 2010, with ex-combatants receiving their benefits by December 2009, the African Development Bank contribution of $22.5 million to the Unité d'execution du programme national de désarmement, démobilisation et réinsertion will close in December 2010. Approximately 30 per cent of that amount is earmarked for individual reinsertion programmes, while the remaining $16.4 million has been allocated for collective reinsertion programmes, including the creation of 10 pilot agricultural farms. In addition, MONUC has secured $4 million for a disarmament, demobilization and reintegration programme to address some 3,500 armed group elements that were unable to participate in the Programme.

Mine action

85. The United Nations Mine Action Coordination Centre continued to concentrate its mine action efforts in eastern Democratic Republic of the Congo, including with respect to the coordination of surveys, the clearance of mines/explosive remnants of war, and mine risk education activities. Representatives of the Ministries of the Interior and Defence were integrated into the Centre to build national mine action capacity, and the national mine action law was included in the current agenda of the National Assembly. On 10 November, 7,471 square metres of land cleared of mines in Motondo, Katanga, was handed over to local authorities and communities for planned agricultural projects expected to benefit some 2,000 people.

Elections

86. In September, the Independent Electoral Commission completed the voter registration update in Kinshasa, in which it issued approximately 1.4 million new voter cards. However, the launch of the voter registration update in the other 10 provinces continued to be delayed, as the Government has yet to communicate to the Commission the official list of constituencies for the local elections. In addition, the

Government has yet to provide its share of funding for the process. On 25 November, President Kabila presided over an inter-institutional meeting with the Prime Minister, the heads of the two houses of Parliament, the head of the Supreme Court and the President of the Commission in Mbuyi-Mayi. During the meeting, the Government officially confirmed its commitment to the holding of local elections before general elections and indicated that a timetable in that regard would be issued before 10 December. However, accumulated delays made it unlikely that the local elections could be held before the end of 2010. This, in turn, cast doubt over the timely holding of the 2011 general elections.

IV. Financial implications

87. The General Assembly, by its resolution 63/291 of 30 June 2009, appropriated the total amount of $1,346,584,600, equivalent to $112,215,383 per month, for the maintenance of MONUC for the period from 1 July 2009 to 30 June 2010. Should the Security Council decide to extend the mandate of MONUC beyond 31 December 2009, the cost of maintaining the Mission would be limited to the amounts approved by the General Assembly.

88. As at 30 September 2009, unpaid assessed contributions to the Special Account for MONUC amounted to $340.9 million. The total outstanding assessed contributions for all peacekeeping operations as at that date amounted to $2,323.1 million.

89. As at 24 November 2009, the amount owed to troop and formed-police contributors totalled $43.1 million. Reimbursements of troop and contingent-owned equipment costs have been made for the period up to 31 August 2009 and 31 December 2008, respectively, in accordance with the quarterly payment schedule.

V. Recommendations and observations

90. Since my previous report to the Security Council, progress in areas critical to the stabilization of eastern Democratic Republic of the Congo has remained uneven. The continued improvement in the relations between the country and its neighbours is to be commended, and I encourage the Governments of the Democratic Republic of the Congo, Rwanda and Uganda to continue on this right path. I am encouraged by the positive signals that Presidents Kabila and Kagame have continued to send in that regard.

91. While Operation Kimia II against FDLR achieved significant military gains, it was accompanied by a high humanitarian cost, as outlined in the present report. The shift to a new phase of the operation is expected to reduce the impact on the civilian population while maintaining pressure on FDLR. Despite some limited progress with respect to the implementation of the Government's zero-tolerance policy within FARDC, some elements of the national army were responsible for very serious human rights violations. I urge the Government of the Democratic Republic of the Congo to redouble its efforts to prevent or address such unacceptable violations, and I call on its bilateral partners to provide capacity-building support for the country's military justice system.

92. The Mission's support for some 16,000 FARDC elements involved in Operation Kimia II in the Kivus, and for the FARDC troops involved in Operation Rudia II against LRA in the Uélés and in Operation Iron Stone in Ituri district, Orientale province, will continue on the condition that such support be withdrawn from FARDC units showing a blatant disregard for human rights, refugee or international humanitarian law. MONUC will continue to closely monitor FARDC conduct and the application of its policy on support for FARDC and, as in the case of Lukweti, will move speedily to suspend its support for any FARDC unit found to have committed violations of any of those bodies of law.

93. It is essential that urgent steps be taken to improve the protection of civilians, which, while it is the first priority of MONUC, is first and foremost the primary responsibility of the Government of the Democratic Republic of the Congo. With the support of the Mission and bilateral partners, the Government must take the measures necessary to transform FARDC into a protector of the Congolese people. Critical and urgent steps to address the status of FARDC in North and South Kivu, accompanied by the implementation of the new phase of operations and the non-military measures to deal with FDLR, outlined in paragraphs 11 and 51, respectively, will contribute significantly to the protection of civilians and to the overall security situation in the eastern part of the country. Such steps should include: assisting the Democratic Republic of the Congo and Rwanda in defining an end state for the resolution of the FDLR issue; encouraging Member States to take legal action against FDLR leaders residing in their countries, including through the effective implementation of the Democratic Republic of the Congo sanctions regime; enhancing disarmament, demobilization, reintegration and resettlement or repatriation efforts, including through an information campaign involving the Democratic Republic of the Congo, Rwanda and MONUC; exploring ways in which Rwanda can further promote the voluntary return and socio-economic integration of non-*génocidaire* FDLR members; supporting the extension of State authority in areas from which FDLR elements have been dislodged; and intensifying concerted efforts to professionalize FARDC.

94. The reported violations by FARDC elements highlight the importance of continuing to address the culture of impunity in the Democratic Republic of the Congo. I remain encouraged by emerging, albeit limited, progress in the area of military justice, including with respect to the extraordinary judicial mechanisms that have been established in the Kivus with the aim of taking action against FARDC elements that have committed human rights violations, including acts of sexual violence, in the context of the Kimia II operations. However, I reaffirm the need for the country's authorities to ensure that those mechanisms respect international standards, and I encourage their strict enforcement of the zero-tolerance policy within FARDC.

95. I welcome the removal from operational command positions of the five senior FARDC officers who were highlighted by the Security Council during its mission in May. This should be followed by relevant judicial steps to ensure that the five alleged perpetrators are brought to justice. MONUC stands ready to continue to support specific efforts in that regard, including through the prosecution support cells, which will support the investigation and prosecution of offenders.

96. I strongly urge the Governments of the Democratic Republic of the Congo and Rwanda to work together and to agree on a clear set of end-state objectives on the

FDLR question, as well as to cooperate with MONUC and other partners on the necessary and complementary non-military measures to attain those objectives.

97. In this context, I welcome the important steps taken by the Federal Republic of Germany to arrest Ignace Murwanashyaka, President of FDLR, and his deputy Straton Musoni. The renewed commitment of the European Union to the implementation of resolutions 1804 (2008) and 1857 (2008) and the adoption of concrete measures within the Union to tackle FDLR are also welcome. I encourage other countries in which FDLR diaspora members are known to be based to adopt similar stringent measures. These are critical to the effective neutralization of the group in eastern Democratic Republic of the Congo.

98. Alongside the efforts to address FDLR, the integration of the Congolese armed groups into FARDC continues to present a unique opportunity to bring stability to the Kivus. However, there are still major challenges to FARDC integration, with respect not only to former members of CNDP, who have maintained a parallel chain of military and political command in a number of areas, but also to all groups newly integrated into FARDC. I encourage the authorities of the Democratic Republic of the Congo to take concrete steps to address relevant concerns raised by the Congolese armed groups, including with respect to the attribution of ranks of the newly integrated elements, in order to secure the consolidation of the integration process. Ensuring salary payment and better training and equipping of troops, as well as providing barracks, are also critical. In this regard, I welcome the completion by the European Union Mission of Assistance for Security Sector Reform of a census of the newly integrated elements, which is an important step towards ensuring the regular payment of salaries. I urge the European Union Mission and its partners to sustain efforts to that end, in continued close collaboration with MONUC.

99. The implementation of the 23 March Agreements is also critical to ensuring the successful completion of the integration process. Some steps have been taken, including with respect to the transformation of CNDP and other Congolese armed groups into political parties; the establishment of mechanisms for the war-wounded, widows and orphans; and the release of political prisoners. Overall, however, progress has been slow. I urge all parties to the Agreements, particularly the Government of the Democratic Republic of the Congo, to accelerate the implementation of the commitments that they have undertaken, which will be important in ensuring that the long-suffering population of the eastern part of the country can enjoy the fruits of peace at last.

100. The continued attacks against civilians committed by LRA, now estimated to have no more than 100 members in the Democratic Republic of the Congo, is a source of continued concern. LRA now constitutes a regional threat, extending into the Central African Republic and the Sudan. There is a continued need to ensure a joint, regional response. The United Nations peacekeeping and special political missions in the area are taking measures to share information, conduct analysis and coordinate responses to the LRA challenges in their mission areas, including with relevant national security forces. I encourage the Security Council to consider taking steps to harmonize the mandates of the various affected missions in order to permit more concerted action, including in support of the protection of civilians.

101. However, a core guarantee of sustained stability in the Democratic Republic of the Congo will be reform of the security sector. Despite the efforts of the

Government and those of bilateral partners, including significant financial and technical support, there has been very limited tangible progress on reform of the Congolese security forces, most of which still comprise an amalgamation of inadequately trained former members of armed groups. It is my strong view that international partners now need to work together in a coherent manner to assist the Government in developing a plan for the support of security sector reform that would ensure that the resources they are investing in this programme are used in the most efficient and sustainable manner to build professional, sustainable, well-trained and well-equipped security forces capable of assuming internal and external security responsibilities in accordance with international norms. I believe that MONUC is best placed to play a coordinating role among international partners on security sector reform issues in support of nationally led initiatives.

102. As a first step towards the development of credible, professional and sustainable armed forces, the Government is encouraged to work with MONUC and its bilateral partners to build a small, well-vetted, multi-ethnic force of between 15,000 and 20,000 personnel, which the international community can help to train, equip and sustain, and which would progressively take over the Mission's security responsibilities in the conflict-affected areas of the country. Such a force, whose tasks, size, composition and structure could be jointly developed by the Government and its partners, could also assist the Government in fulfilling its ambition to progressively professionalize FARDC.

103. Furthermore, ensuring that rogue elements of FARDC do not replace FDLR is critical. In this context, continued efforts to support the extension of credible and legitimate State authority, particularly in eastern Democratic Republic of the Congo, are vital. The absence of a functioning State presence creates opportunities in the conflict-affected areas for the illegal exploitation of natural resources. Alongside the efforts in this regard being initiated by MONUC in collaboration with the country's authorities, it is critical to continue to support, as a matter of priority, ongoing efforts to restore State authority in areas from which FDLR has been dislodged and to re-establish or reinforce administrative, police, judicial and corrections institutions throughout the eastern provinces under the Government's Stabilization and Reconstruction Plan for War-Affected Areas and the United Nations Security and Stabilization Support Strategy.

104. I encourage Parliament to accelerate its deliberations, particularly with respect to the adoption of laws relating to the elections. At the same time, it will be important to maintain an appropriate balance between Parliament and the Executive in order to ensure a balance of power among the branches of government, as prescribed by the Constitution. In that connection, I encourage the Government of the Democratic Republic of the Congo to ensure the maintenance of democratic space in order to guarantee the consolidation of the multi-party democratic system foreseen in the Constitution.

105. The timely holding of local elections will be an important step in this regard. However, I am very concerned that the continued delays, the proposed changed methodology for voter registration and the Government's inability thus far to meet its commitments for the preparation of the local elections will affect the already delayed timeline. Further delays will also have an impact on the holding of the second national elections, which, in accordance with the Constitution, are to take place by 2011. Clearly, such an impact would be grave for the nascent democratic

culture in the Democratic Republic of the Congo, and I urge the Government to take a decision as soon as possible with regard to the local elections. I also encourage international partners to continue to support the Government's efforts in this respect, including with financial assistance.

106. During the past 10 years, MONUC has accompanied the Congolese people when they have achieved major milestones in their national history, including the implementation of the various agreements that reunited their country's territory, and the All-Inclusive Agreement, which brought about the transitional period. The Mission has supported the Democratic Republic of the Congo and its people during their first free and fair elections in 40 years, and has continued to contribute to the restoration of security, to reconstruction and to building the capacity of the State. With the exception of the Kivus and a number of pockets in Orientale province, the Democratic Republic of the Congo is now largely a country at peace and is ready, almost 50 years after its independence, to embark on the next critical reconstruction and rebuilding phase.

107. In recognition of these realities, MONUC and the Secretariat will, during the first quarter of 2010, engage with the Government of the Democratic Republic of the Congo in detailed discussions on the future direction and configuration of the Mission with a view to agreeing on the critical tasks that need to be accomplished with the support of MONUC and within the expected time frames before the Mission can begin its drawdown, without triggering a relapse into instability. The agreements to be reached with the Government will enable the United Nations system in the country to finalize its Integrated Strategic Framework, referred to in paragraphs 49 and 50. On that basis, I intend to present to the Security Council, in April 2010, recommendations on the reconfiguration of MONUC and on its possible future direction.

108. In the meantime, I would like to recommend that the Mission's mandate be extended for a six-month period, until 30 June 2010, at its current approved strength and configuration. This limited extension will permit the completion of the discussions with the Government referred to above. On the basis of the detailed recommendations to be submitted in my April report, the Security Council would then conduct a more careful review of MONUC with a view to developing, in June 2010, a new mandate that defines the Mission's future direction, including its military drawdown. During these six months, I recommend that the Mission's highest priority remain the protection of civilians. In addition, taking account of the challenges posed by the long list of tasks set out in resolution 1856 (2008), I propose that MONUC focus on the following over the next six months: (1) assisting the Government, in accordance with its policy on support for FARDC, outlined in paragraphs 12 and 13 above, in successfully and expeditiously completing large-scale military operations led by FARDC, which will be progressively concentrated on targeted military actions, as well as supporting non-military efforts to neutralize and repatriate foreign armed groups, in particular FDLR and LRA, and to neutralize residual Congolese armed groups; (2) supporting the extension of State authority, including by establishing basic administration and rule-of-law structures in areas freed from armed groups and in key mining areas, within the framework of the Government's Stabilization and Reconstruction Plan for War-Affected Areas and the United Nations Security and Stabilization Support Strategy, with a particular emphasis on support for the training and deployment of the national police, on enhancing rule-of-law capacity and on the rehabilitation of roads on priority axes;

(3) in parallel to supporting comprehensive security sector reform and the provision of urgent assistance to the national disarmament, demobilization and reintegration processes, playing a lead role in coordinating international security sector reform partners and assisting the Government in building effective rule-of-law capacity, including justice and corrections, and in working with the country's bilateral partners to support the vetting, training and professionalization of FARDC battalions and police units deployed in the east with a view to building a force that will progressively assume MONUC's current security responsibilities; (4) in accordance with the child protection provisions of resolution 1856 (2008) and of resolutions 1612 (2005) and 1882 (2009), on children and armed conflict, and in collaboration with relevant child protection partners, supporting the release of children from all forces and groups present in the Democratic Republic of the Congo and ensuring that children are given special attention in the implementation of disarmament, demobilization and reintegration programmes; (5) helping to accelerate the implementation of the 23 March Agreements with respect to the integration of the armed groups and to establish mechanisms for resolving local disputes arising from land and property issues, from the return of refugees and internally displaced persons and from ethnic tensions, as foreseen in the Agreements; (6) subject to further clarity from the Government, supporting preparations for local elections; and (7) supporting efforts by the Governments of the Great Lakes region to foster good-neighbourly relations, including through the International Conference on the Great Lakes Region and other regional mechanisms.

109. Finally, I would like to express my sincere gratitude and appreciation to all MONUC civilian, military and police personnel, who, under the leadership of my Special Representative, Alan Doss, have continued to show determination and selfless dedication under very difficult conditions in support of the Congolese people during another critical period in their history. I would particularly like to thank my outgoing Deputy Special Representative, Ross Mountain, who served the United Nations system with distinction for 36 years. I would also like to express my gratitude to my Special Envoy, former President Obasanjo, for his vital efforts in the region over the past year and to the United Nations country team and the humanitarian community, which are toiling to save lives under difficult conditions. My continued appreciation goes to countries contributing troops and police to MONUC and to their uniformed personnel, as well as to donor countries and multilateral and non-governmental organizations that are providing much-needed support in the Democratic Republic of the Congo.

Map No. 4121 Rev. 44 UNITED NATIONS
December 2009

Department of Field Support
Cartographic Section